

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 GROENEVELD TRANSPORT)
5 EFFICIENCY INC.,)
6) Judge Nugent
7) Cleveland, Ohio
8)
9) Civil Action
10 vs.) Number 1:10CV702
11 LUBECORE INTERNATIONAL,)
12 INC.,)
13)

14 Defendant.

15 -----
16 TRANSCRIPT OF PROCEEDINGS HAD BEFORE
17 THE HONORABLE DONALD C. NUGENT
18 JUDGE OF SAID COURT,
19 ON FRIDAY, OCTOBER 14, 2011

20 **Volume 2**
21 -----

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Wapenaar - Direct

1 FRIDAY SESSION, OCTOBER 14, 2011, AT 8:30 A.M.

2 THE COURT: Good morning, ladies and
3 gentlemen.

4 THE JURY: Good morning.

08:32:17 5 THE COURT: Please be seated. You may call
6 your next witness.

7 MS. MICHELSON: Your Honor, we're going to
8 call Kees Wapenaar to the stand.

9 THE COURT: Sir, would you raise your right
08:33:01 10 hand for me.

11 THE WITNESS: Sure.

12 KEES WAPENAAR,

13 of lawful age, a witness called by the PLAINTIFF,
14 being first duly sworn, was examined
08:33:02 15 and testified as follows:

16 DIRECT EXAMINATION OF KEES WAPENAAR

17 THE COURT: Would you tell us your full name
18 and spell your last name.

19 THE WITNESS: My name is Cornelius Wapenaar.
08:33:20 20 They call me Kees. And my last name is spelled
21 W-A-P-E-N-A-A-R.

22 THE COURT: C-a-s-e, is what they call you?

23 THE WITNESS: K-E-E-S.

24 THE COURT: I got the "S" right. Thank you.

08:33:41 25 MS. MICHELSON: Thank you, your Honor. Good

Wapenaar - Direct

1 morning.

2 Q. Good morning, Mr. Wapenaar. How are you today?

3 A. Good morning. I'm fine. How are you?

4 Q. Good. Can you please tell the jury a little bit about
08:33:49 5 yourself, where you're from and where you live now?

6 A. All right. I am from the Netherlands. I was born and
7 raised there in the Netherlands and work for Groeneveld
8 since 1973. In 1993 Groeneveld asked me to get involved in
9 the U.S. activities. As a result, I went with my family and
08:34:17 10 we're here today.

11 Q. And so you've been living in the United States since
12 you said since '93?

13 A. 1993, yeah.

14 Q. And where -- just what city do you live in here in
08:34:30 15 town?

16 A. I live in Fairlawn, Ohio, a suburb of the City of
17 Akron.

18 Q. And, sir, if you could tell the jury your education
19 and working into your job experience, but still start with
08:34:45 20 your education first, please.

21 A. Europe, it's a little different. It's a different
22 high school with -- to make simple, just call it high
23 school. I completed high school. After that, I had an
24 automotive career for four years. And when I was down, I
08:35:04 25 was basically a certified car technician. After doing that

Wapenaar - Direct

1 work for about three or four years, I fell by myself this is
2 not really what I like to do for the rest of my life. Am I
3 going too quick?

4 **Q.** No, but I'm having trouble hearing you.

08:35:23 5 **A.** Okay.

6 THE COURT: If you keep your face about three
7 inches away, we can hear everything you have to say.

8 MS. MICHELSON: Thank you.

9 THE WITNESS: Okay.

08:35:31 10 **Q.** I didn't mean to interrupt. Go ahead.

11 **A.** That's fine. After doing that for three years, three
12 and a half years, I saw an opportunity to become an
13 excavated technician. Big mistake because it was even worse
14 than the work before that. After that, I saw an
08:35:47 15 advertisement from Groeneveld in the Netherlands newspapers,
16 decided to react to that, and I got a job. So I work for
17 Groeneveld since 1976.

18 **Q.** Mr. Wapenaar, when you finished your high school
19 program, what -- how old were you?

08:36:10 20 **A.** Probably around 70 years.

21 **Q.** And what kind of work did you do? What were your jobs
22 and responsibilities before you joined Groeneveld at the
23 various companies you spoke about?

24 **A.** To maintain and repair four cars initially, and the
08:36:32 25 same job I basically had on the excavated company. The

Wapenaar - Direct

1 difference was that the work at Ford was basically under
2 roof at one place. Being a technician for excavation, you
3 have to go to the job to excavate or it doesn't come to you
4 because it's way to bulky. And so it's a different job. I
08:36:54 5 have learned a lot of -- how shall I say this? To be
6 independent. You're all by yourself and nobody's there to
7 help you. So I think those three years sincerely
8 contributed to my well-being.

9 **Q.** And when you started working with the Groeneveld
08:37:16 10 company, about how big was the company? If you could just
11 describe that for the jury.

12 **A.** I think it was Number 42 on the list. So it was
13 fairly small, and 42 is from the owner of the company to
14 other people in the warehouse to the sales guys, the
08:37:36 15 technicians. So included all the people that worked for us.

16 **Q.** And the company was started, you know -- do you know
17 the date of that approximately?

18 **A.** Yeah, I do. I know the date. It's May 1, 1971. We
19 just had our 40th anniversary. So there was a big party.

08:37:57 20 **Q.** And, sir, how many people approximately work for
21 Groeneveld these days?

22 **A.** It's very difficult to say because there are so many
23 locations Groeneveld is represented throughout the whole
24 world, and we sell our products through -- between 25 and 30
08:38:19 25 branches. So I would say -- I don't think I can say at this

Wapenaar - Direct

1 point.

2 Q. Okay. Hundreds, more?

3 A. I'd say more like thousands.

4 Q. All right.

08:38:33 5 And can you -- can you tell the jury your basic
6 product lines these days?

7 A. These days, the main product that I'm involved in is
8 the automatic lubrication system. It is a system that
9 basically was there from the start, although we had a
08:38:57 10 different system when Groeneveld started, but it's a
11 different thing. Initially, the automated lubrication
12 system was only there for truck and trailers. After that,
13 Lubecore Groeneveld got involved in heavy equipment like the
14 Caterpillars and the John Deeres. Besides automatic
08:39:17 15 lubrication systems, we have speed limiters. That is to
16 control the speed of the truck. We have -- at that time, we
17 had Calfter. I understand it's for this time. We have
18 onboard computer systems that register all the activities of
19 the driver. That's all I can think of at this point.

08:39:41 20 Q. And when you were first hired and started with
21 Groeneveld, where were you located and what were your
22 initial job responsibilities?

23 A. When I got hired, I lived in a city called Hornington.
24 The company was in Huntingsville -- sorry for all those
08:40:02 25 difficult names but -

Wapenaar - Direct

1 **Q.** I think you have to apologize to the Court Reporter,
2 the one who has to -- she's the one who has to type them
3 down. Go ahead.

4 **A.** My first activities in the company were being a sales
08:40:19 5 guy, just being on the road, beat the bushes as they say,
6 and make sure that you sell the product. Believe me. In
7 the beginning, I had hard time, of course, as I was told I
8 had a technical background. But, since I'm still here,
9 apparently I was able to adjust myself to the sales job.

08:40:40 10 **Q.** What kind of skills do you need to be a salesperson?

11 **A.** Salesmen cannot be made, as I always said. He is
12 born, or she. Sorry. You have to -- you have to get
13 ability to listen very carefully. You have to get ability
14 of expressing yourself, of course. But, the most important
08:41:10 15 thing is that the people trust you, the people that you're
16 talking to, they must get the confidence that, hey, I like
17 to do business with this guy. So those are our -- things
18 that you cannot learn. It must be inside you.

19 **Q.** And what were the products that you were selling for
08:41:31 20 Groeneveld in the, I guess your early days, 1976, during
21 this initial job period for you?

22 **A.** The product that I was selling would suggest the
23 automatic lubrication system, the single-line system. At
24 that point, we didn't have anything else. Believe me, if
08:41:49 25 it's virgin market, you have a lot of things to do.

Wapenaar - Direct

1 Q. I'm going to show you Exhibit 87 and ask you if this
2 is the lube system that you were handling for Groeneveld
3 back in those days?

4 THE COURT: You want the -- what do you want
08:42:22 5 the computer?

6 MS. MICHELSON: Yes. Thanks, Judge. I can do
7 the Elmo if that's easier.

8 THE COURT: That's all right. We'll figure it
9 out. There you go.

08:42:52 10 Q. And we're showing you Exhibit 87, Plaintiff's Exhibit
11 87. And can you identify the pump that's depicted in the
12 picture?

13 A. It's the Groeneveld system manufactured in the United
14 States to be exact in the Cleveland, Ohio, at that time.

08:43:10 15 Q. And is this the product that Groeneveld was carrying
16 in the early days?

17 A. Yes, ma'am.

18 Q. And there's a label on the -- on the Grease Jockey.
19 Can you read it? I don't know if we have to zoom in for
08:43:26 20 you. There. Thank you.

21 A. Yeah, it's kind of the logo that gives it away, but it
22 says Groeneveld Transport Efficiency.

23 Q. And was Groeneveld authorized at the time to put its
24 label on that Grease Jockey pump?

08:43:43 25 A. I don't know.

Wapenaar - Direct

1 Q. Anybody ever have a problem, express a problem with
2 that?

A. They never expressed that to me, so.

4 Q. Okay. Thank you.

So we understand there came a time when

6 Groeneveld's -- that the lubrication system that Groeneveld
7 was selling changed. It was no longer this Grease Jockey.

8 Oh, by the way, I have -- before we get there, Mr. Van
9 der Hulst described this as a TSI or Samuel Moore. And
0 you've just described it as a Grease Jockey. Can you
1 explain that to the jury a bit?

12 **A.** TSI at that time was basically the owner of the
13 product. TSI stands for Truck Service Incorporated, but the
14 marketing name was Grease Jockey at that time.

08:44:41 15 Q. Okay. So Groeneveld, we understand, decides to make
16 its own EP0 single-line automatic lubrication system. You
17 recall that?

18 **A.** Yes, ma'am.

19 Q. And is -- and can you maybe describe for the jury your
08:44:54 20 role in the change of the product? You just started selling
21 a new product. I don't know if you can just tell them what
22 happened?

A: My role in designing new product is not existing.

24 g. And your role in handling the product for the company?

A. Selling it, just selling it to the end users, and

Wapenaar - Direct

1 that's about it.

2 Q. And -- maybe it's 50. 49.

3 And, sir, can you identify what is depicted in Exhibit
4 49, please?

08:45:38 5 A. That's the Groeneveld single-line pump.

6 Q. And that's an EP-0?

7 A. EP-0, yeah.

8 Q. Can you explain the zero to the jury, what this mean,
9 the EP-0, what the significance of the zero is?

08:45:52 10 A. The zero stands for the viscosity of the grease. If
11 you grease a truck by hand, for example, then the shop
12 grease, as they call it, is a Number 2, a Number 2 grease is
13 more consistent, has more suds in it. Of course, when you
14 grease by hand, then you only do that once a month or maybe
08:46:15 15 six weeks. It all depends on the circumstances. So the
16 grease needs to be thick to let it sit in that component for
17 that long of a period. An automatic lubrication system
18 lubricates six to eight times a day. As a result, you don't
19 have to use that thick grease. You can do it with a thinner
08:46:38 20 grease. The benefit is zero base grease contains more oils,
21 which is lubricated in grease, than Grease Number 2. So
22 first of all, you increase the number of lubrications by a
23 lot; and second of all, you increase the grease quality
24 lubrication quality at that point.

08:47:06 25 Q. And, sir, so has the look of this pump

Wapenaar - Direct

1 changed on the outside over the last -- well, let me ask you
2 this first. When did you start selling this system that's
3 depicted in this picture?

4 **A.** Initially the reservoir was a lot smaller. That is
08:47:28 5 the reservoir. We didn't have a six liter reservoir when we
6 started with a four liter reservoir. As a result, the top
7 comes down two or three inches, but the look is still the
8 same. And I think we used that pump in the early 1980s.

9 **Q.** And then with -- you introduced the four-liter
08:47:52 10 reservoir in the 1980s?

11 **A.** Yeah.

12 **Q.** And you have a six-liter reservoir as well?

13 **A.** Yes, ma'am.

14 **Q.** And that's the one we see in the picture?

08:48:01 15 **A.** Yeah.

16 **Q.** And on the table as well?

17 **A.** Correct.

18 **Q.** When did you guys start selling both the four and the
19 six liter about?

08:48:15 20 **A.** I don't know when we introduced the s-i-x liter
21 reservoir. I think it was a development that came out of
22 Canada. Of course, it's long maintenance intervals.
23 Four-liter reservoir was too small. So as a result, they
24 developed the six-liter reservoir. You don't have to be a
08:48:31 25 rocket scientist to create it because you just make the

Wapenaar - Direct

1 reservoir a little longer, and you make that rock inside a
2 little longer, and that's about it.

3 **Q.** And about how long has the six-liter reservoir product
4 been on the market, estimated?

08:48:50 5 **A.** I cannot tell you that.

6 **Q.** Ten years? You don't --

7 **A.** Probably 15 years, between 15 and 20 years.

8 **Q.** Okay. Thank you.

9 So when you first started selling the EP-0 single-line
08:49:08 10 ALS that Groeneveld developed, tell the jury where you went,
11 what your territory was, what your assignment was?

12 **A.** Well, I started the last one. The assignment was very
13 simple. Sell as much as you can. The territory that I
14 started in 1976 was the southern part of the Netherlands. I
08:49:32 15 was responsible for they call it products. You call it
16 counties. It was north, Limbert and Zealand.

17 Basically, I was the first guy that moved into the
18 territory to sell automatic lubrication systems. So you had
19 a lot of work to do. I think I was in that area for about
08:49:56 20 ten, 12 years, and I don't like to brag about myself, but I
21 think it was pretty successful, so.

22 At that time, the owner of the company asked me to
23 move territories, and he moved me to our present county. It
24 was south Netherlands, south Holland, which basically means
08:50:16 25 southern Netherlands. It wasn't in the south. It was the

Wapenaar - Direct

1 most important county in the Netherlands. I --

2 Q. Just let me interrupt you. You said the owner of the
3 company asked you to take on this new role. And who is
4 that?

08:50:31 5 A. The owner, his name is Henk Groeneveld. And today,
6 he's still the owner of the company.

7 Q. And continue?

8 A. After that, being in south Holland for a couple of
9 years, I was kind of burned out, and people saw that, and I
08:50:50 10 had an opportunity to have a meeting with Henk Groeneveld,
11 and he basically suggested to go into the international
12 activities. Of course, Groeneveld was growing, and at that
13 point, I became the liaison between Groeneveld and the
14 independent distributors and some of our own branches in
08:51:10 15 Europe. And I like that quite a lot. And to make a story
16 even longer, that is basically the basis for me being in the
17 United States as well since my international activities and
18 at some point in 1993, Groeneveld initially approached one
19 of our distributors, Fuel Systems. If he was interested
08:51:37 20 to -- of course, they already -- maybe I'm going to live
21 little too fast now but Fuel Systems was already a
22 distributor for us in the United States. And since
23 Groeneveld had desired to go bigger in the United States, we
24 asked Fuel Systems if they wanted to help us. Fuel Systems
08:51:54 25 basically said no, we feel comfortable in the state of

Wapenaar - Direct

1 Wisconsin. We like to stay there. As a result, Groeneveld
2 decided to start their own branch in the United States, and
3 that's what I did in 1993 in Akron, Ohio.

4 **Q.** And before you got to the U.S., you talked about
08:52:20 5 some -- you -- you were traveling internationally handling
6 the Groeneveld EP-0 product, correct?

7 **A.** Correct.

8 **Q.** And give the jury an idea the scope of your travel in
9 those days on behalf of Groeneveld.

08:52:40 10 **A.** Basically, what I did, as I highlighted earlier, I
11 visited our distributors and our own branches. What I did
12 is basically commercial support being with the company for
13 so long, I think you have some baggage with you that can be
14 used. And especially starting distributors or branches
08:53:03 15 today. They need a lot of help to get going. So my job was
16 to again be the liaison between them. If they had any
17 problems, they called me. If I couldn't fix the problem, I
18 went into the organization to find a solution for the
19 problem. So it's basically go to guy for our distributors
08:53:27 20 at that point.

21 **Q.** And where in the world did you do all these things?
22 Where were these distributors and these branches?

23 **A.** Predominantly in Europe, countries like Denmark,
24 Sweden, UK, France, Spain, a few more countries I think we
08:53:50 25 have in the USA or in Europe. Basically most companies

Wapenaar - Direct

1 speak English. Of course, I didn't speak any German or
2 French. If I went to France, then there were always Dutch
3 people speaking or English speaking people there as well.

4 Q. And has Groeneveld grown beyond Europe and North
08:54:16 5 America as you described over the last ten, 20 years?

6 A. Absolutely. Groeneveld, I call it in worldwide
7 organization. We have locations throughout the whole world.
8 I mentioned in most of the countries in Europe already that
9 we have locations, branches in USA, in Canada, Australia,
08:54:44 10 the far east, basically whatever truck businesses or having
11 equipment business, Groeneveld is there or is trying to go
12 there.

13 Q. And Mr. Wapenaar, the EP-0 single-line pump, this
14 system, four liter and six-liter products, is the -- is the
08:55:08 15 look consistent throughout the world, everywhere Groeneveld
16 is?

17 A. Yeah. Yeah, because the pump is built in Italy, and
18 it is -- you can use it in all the countries in the world.
19 So why should you confuse people and why create a different
08:55:33 20 pump?

21 Q. And has the look, the outside look of your pump,
22 changed since it was introduced into the market worldwide,
23 way back when?

24 A. Absolutely not.

08:55:48 25 Q. Okay. So let's talk about the United States and North

Wapenaar - Direct

1 America. You alluded to a company called Fuel Systems out
2 of Wisconsin. And you -- can you -- can you tell the jury
3 about when they started up carrying the Groeneveld product
4 line of these ALS pumps?

08:56:21 5 **A.** In those days, we had a person who was responsible for
6 international activities, and he got first contact with the
7 Koppelman family who owned Fuel Systems.

8 **Q.** And that's Bill Koppelman?

9 **A.** Bill Koppelman, Senior.

08:56:40 10 **Q.** Senior in those days. Junior?

11 **A.** Right.

12 **Q.** Junior in these days?

13 **A.** Junior was involved, but on the side line.

14 **Q.** And what about now?

08:56:47 15 **A.** It's the opposite.

16 **Q.** Yeah. Okay.

17 **A.** As far as I know.

18 **Q.** Okay.

19 **A.** So he got the first contact with Fuel Systems and Fuel
08:56:56 20 Systems is basically in Wisconsin. There's a big trucking
21 outfit basically in Wisconsin as well as that's in Green
22 Bay, United Trucking, and through products they already
23 delivered to that company, they created some interest for
24 the Groeneveld hairdryer, but the way -- that's one of the
08:57:16 25 products I forgot to mention earlier when you asked me about

Wapenaar - Direct

1 the list. The Groeneveld hairdryer was a high quality
2 hairdryer, and Fuel Systems was able to create sincere
3 interest at the Schneider Trucking. So those were the first
4 contacts. At some point, they showed interest in the
5 automatic lubrication system as well. And I think in the
6 mid 80's, Henk Groeneveld, Jan, who was the international
7 guy, and Bill Koppelman, Senior, they made verbal
8 agreement --

MR. ANASTOS: Objection. Foundation.

THE COURT: Ask another question, please.

11 BY MS. MICHELSON:

12 Q. And when you described earlier, you mentioned
13 Independent Distributors and Groeneveld had its own
14 branches. Can you explain that to the jury a little bit?

A. Do you mind repeating that question?

16 Q. How the products, how Groeneveld gets its products
17 into the hands of end users?

18 A. End user.

19 9. Is it different overseas?

08:58:24 20 A. No, not really.

21 Q. Okay. So can you describe in general how you guys do
22 that?

A. I think you need to ask me the question again.

24 Q. You mentioned independent distributors and you
08:58:41 25 mentioned Groeneveld branches?

Wapenaar - Direct

1 **A.** Um-hum.

2 **Q.** And I'd just like you to explain a little to the jury
3 how those two different avenues of distribution work for
4 Groeneveld. Am I not asking you a clear question?

08:59:02 5 **A.** Apparently not because I'm trying to find an answer.

6 **Q.** Okay. Hold on. What's the difference between the
7 independent distributors and the branches?

8 **A.** Okay. I can answer that.

9 The difference between independent distributors is
10 that the distributorship is owned by the person itself and
11 branches are owned by Groeneveld. So that's the big
12 difference. They both have designated territories. And
13 they're all owned by us as Groeneveld. Does that answer the
14 question?

08:59:43 15 **Q.** Yes. Thank you very much.

16 And in -- and when a sale is handled by the Groeneveld
17 distributor -- I'm sorry. When the -- when the sale is
18 handled by the branch office, who does the branch office
19 sell the product to?

09:00:08 20 **A.** I don't think it makes a difference if the sale is
21 made, the branch or the -- it's going to handle the sales.

22 **Q.** And okay. So you get to America, United States in
23 '93, and what do you start doing here? What's your job?

24 **A.** I came to America February 1st of 1993. Just being
09:00:39 25 all by myself, flying in and out, three weeks in the USA,

Wapenaar - Direct

1 one week back home just to discover if there was life
2 expectancy for a Groeneveld USA. I did that for about a
3 half year and together for the people in headquarters, we
4 decided there was indeed expectancy for our company.

09:01:04 5 Basically, I did the same thing as I did before in Europe.
6 I just beat the bushes and found people that were
7 interested in our product. And in the beginning, we didn't
8 even have technicians. So they came over from Europe to
9 help us to do the installation. That's basically how we
09:01:24 10 started. And today, we have a nice organization that's
11 doing its job very well.

12 Q. Does Groeneveld have branch offices and independent
13 distributors throughout the United States?

14 A. Yes, ma'am.

09:01:39 15 Q. And the branch offices are located where?

16 A. We have a branch office in Seattle, in Ohio, Brunswick
17 to be exact, and we have activities in the state of Florida
18 with our own people in Texas. We have independent
19 distributors in Michigan, Indiana, in Utah, and I believe in
09:02:07 20 New York.

21 Q. And, sir, where is -- where is -- you mentioned
22 Groeneveld USA. Where's -- where's the headquarters of
23 Groeneveld in the United States?

24 A. Brunswick is basically the -- kind of the
09:02:32 25 headquarters. And we have a facility in Milton, Ontario,

Wapenaar - Direct

1 Canada. That is where our bookkeeping is. So you could say
2 that Milton is kind of the -- the branch of North America.
3 Let's say it that way.

4 **Q.** And the Canadian company, what is that known as?

09:03:00 5 **A.** CPL Groeneveld.

6 **Q.** Okay. And --

7 **A.** CPL I always confuse. CPL Groeneveld or Groeneveld
8 CPL? I'm always confused.

9 **Q.** Okay. Were you involved in -- let me rephrase the
09:03:18 10 question.

11 Did there come a time when the Canadian operation
12 became a branch of Groeneveld as opposed to an independent
13 distributorship?

14 **A.** Yeah, I don't know exactly when. But, at some point
09:03:36 15 in time, Henk Groeneveld bought CPL Systems. I think it was
16 in -- I have Groeneveld Transport Efficiency. Don't do
17 that.

18 **Q.** Yeah. Good idea not to guess. And do you know the
19 gentleman sitting here, Mr. Jan Eisses?

09:03:52 20 **A.** I know him very well.

21 **Q.** And what was his role with Groeneveld previously?

22 **A.** In what capacity? In his own company or --

23 **Q.** Why don't you explain it to the jury how it changed.

24 **A.** Initially, Mr. Eissis was the president of CPL
09:04:14 25 Systems. And at some point, Groeneveld wanted to have North

Wapenaar - Direct

1 American -- I don't want to call it control, but they wanted
2 to bundle every activity in North America. And Henk
3 Groeneveld approached Mr. Eissis, and they came to an
4 agreement. And Henk Groeneveld bought his company and Jan
09:04:44 5 Eissis stayed on for -- as President of Groeneveld North
6 America for a number of years.

7 Q. So when you were initially in the United States -- I'm
8 going back a little -- what areas of the country -- let me
9 put it this way. What areas of the United States have you
09:05:05 10 traveled in handling and representing the Groeneveld
11 automatic lubrication system product?

12 A. Of course, initially when you just start, you're not
13 going to fly all over the country because it doesn't make
14 any sense. In the first couple of years, my target area was
09:05:22 15 the State of Ohio. Of course, you could travel by car or
16 you don't have to spend a lot of money in traveling. After
17 a couple of years, the company was growing. We were hiring
18 sales people. The sales people, we keep them in our own
19 base initially to see what kind of guys they are. So they
09:05:41 20 took care of our customers in our home base, and since I
21 didn't want to go back to Netherlands, I needed to find a
22 job for me. So I got involved in National Fleet Sales.
23 National Fleet Sales is going to, for example, a -- I call
24 it earlier Schneider. Their headquarters is in Green Bay
09:06:12 25 Wisconsin, but they have facilities throughout the country.

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1 A truck is in Florida and needs maintenance, they're not
2 going to bring it back to Green Bay for maintenance. They
3 create their own facilities in the areas that they are
4 strong in.

09:06:23 5 We have other customers. Kroeger, for example. That
6 is a food company headquartered out of Cincinnati, Ohio, but
7 I think they have 22 branches throughout the whole world,
8 throughout the whole state. Of course, you can convince
9 people at headquarters they have to buy a product, but if
09:06:42 10 you don't take care of the people that really have to
11 maintain those systems, if you don't educate them, if you
12 don't become friends with them, then you can do whatever you
13 want, but if the people in those locations don't like the
14 product, then sooner or later you're going to lose a
09:07:00 15 customer. As a result of that, I just need -- I needed to
16 travel throughout the whole country. And in those travels,
17 you find a lot of people that, large fleets that you try to
18 get interested in the product, and that's how you grow.

19 Q. And so how many years have you been traveling all over
09:07:21 20 the country handling and promoting the product?

21 A. I think I started traveling in the late 90's.

22 Q. And you say all over the country. Can you just
23 describe some specific locations?

24 A. Well, let's call it -- let's call Kroeger up again.
09:07:43 25 Kroeger has branches in Portland, Oregon, Los Angeles,

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1 California, Denver, Colorado, Columbus, Ohio, Louisville,
2 Kentucky, Indianapolis, Indiana. I'm sure I forget a few.
3 So that basically tells you that you have to go all over the
4 country.

09:08:04 5 **Q.** And so why Ohio? Why did they start out with their
6 operations in the USA in Ohio?

7 **A.** The shortest name.

8 **Q.** Really?

9 **A.** No. No. The international gentleman I was talking
09:08:23 10 about earlier, he knew people in Akron, Ohio, and also a
11 lawyer that helped us out from a legal standpoint to start
12 our own company. After doing some marketing information as
13 well, we found out that 50 percent of the U.S. population
14 sits between Chicago and New York. And if you look at the
09:08:47 15 map, then Ohio is right in the middle. So that's the reason
16 why we choose for Ohio.

17 **Q.** So when you travel around the country promoting and
18 offering this Groeneveld product, are the customers in
19 perspective customers recognizing the Groeneveld EP-0 ALS
09:09:13 20 system?

21 MR. ANASTOS: Objection.

22 THE COURT: Overruled.

23 THE WITNESS: Initially not, of course. They
24 don't know automatic lubrication system is in the beginning.
09:09:25 25 So you really have to build up from the beginning. What I

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1 always do in my traveling, I carry a big suitcase with me,
2 and all the components that the automatic lubrication system
3 consist of is in that case. In my presentations, I
4 always --

09:09:48 5 Q. Is this your case?

6 A. Yes, ma'am.

7 Q. We'll look at it that way.

8 A. Okay.

9 Q. I'll bring it up for you. And it is -- go ahead, sir.

09:09:56 10 A. I always start, first of all, to introduce myself and
11 to get a feel for a person you're talking to. And in many
12 cases, the first week you can even -- don't get the
13 opportunity to talk about the product. It's all a matter of
14 relation building. So maybe in the second visit with the
09:10:17 15 particular company, you have a chance to bring in that
16 suitcase or open it up. I always bring it in but open it up
17 and show the customer ends of the lubrication system. Of
18 course, the first thing you start with is the pump. That's
19 basically the basic of our system.

09:10:41 20 Q. I'm sorry. I didn't hear that. You start with the
21 pump because why --

22 MR. ANASTOS: Objection.

23 Q. I really can't hear.

24 THE COURT: Overruled.

09:10:47 25 THE WITNESS: We start with the pump because,

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1 first of all, it is the main components of the system. And
2 it's basically the flag ship of our company.

3 Q. What does that mean, "It's the flag ship of our
4 company"?

09:10:59 5 A. It's what you it says. It's the part that jumps out
6 the most. Let's say it that way. As a result, that's where
7 the recognition comes from.

8 Q. Recognition by the Groeneveld people or recognition by
9 the people you are marketing to? That's what I don't
09:11:21 10 understand.

11 MR. ANASTOS: Objection.

12 THE COURT: Overruled.

13 THE WITNESS: Hopefully people already
14 recognize the pump, the people you are selling to.

09:11:27 15 Q. And how can you tell that they are recognizing the
16 pump as the flag ship of Groeneveld?

17 A. I cannot answer that question for you.

18 Q. How do you know? Do they say something? How can you
19 tell? You said it pretty confidently. So I'm curious.

09:11:49 20 MR. ANASTOS: Objection.

21 THE COURT: Objection sustained.

22 Q. All right.

23 Do the customers and prospective customers do anything
24 that indicates to you that they recognize the pump?

09:12:09 25 A. They have to because the pump is basically the only

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1 part that is visible when the system is installed.

2 MR. ANASTOS: Move to strike.

3 THE COURT: Overruled.

4 THE WITNESS: And, of course, at that point,
09:12:23 5 they recognize -- if they have enough systems in their
6 fleet, of course, they recognize their units. It's fairly
7 simple.

8 Q. And can you -- can you explain to the jury the
9 different kinds of customers who purchase these products?
09:12:42 10 Specifically you've mentioned National Fleets, and I -- I'd
11 like you to give the jury an idea of the range of Groeneveld
12 customers?

13 A. Basically internally, we say everything that has
14 wheels grease points is a potential customer. That's a
09:13:03 15 little -- a little wide, but in all reality, every trucking
16 company is a potential customer. If we are able to get to
17 it is a second point. But besides trucking companies, we
18 have, of course, you know, all the snow plows in Ohio, these
19 partners of transportations, the local municipalities that
09:13:29 20 are having equipment. Again, everywhere where you see a
21 truck, you can just go and try to sell your product.

22 Q. And what kind of accounts do you mainly handle?

23 A. I'm focused on the large fleets only. I'm about the
24 only person other than the technicians that travel
09:13:51 25 throughout the whole state. Simply because again, if you

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1 want to maintain a customer, you need to go to all those
2 places. And when you're there, at the same time, you're
3 trying to make the trip more advantageous and find -- try to
4 find other customers as well, but I'm going from east to
09:14:10 5 west to north to south.

6 Q. And you said you handled your focus on the large
7 fleets. Who handles these smaller fleets?

8 A. Smaller fleets are normally handled by local people
9 because smaller fleets are basically at one location. So
09:14:30 10 you don't have to go to all the different places to maintain
11 that customer. Smaller fleets are sitting in one place
12 and -- so as a result, our local guys are taking care of the
13 smaller fleets.

14 Q. And what about the independent distributors that
09:14:50 15 Groeneveld has throughout the country? What kind of -- what
16 are the size of the fleets that they're handling?

17 A. Other than the national fleets, it's basically the
18 same formula.

19 Q. Because -- when you say other than the national
09:15:05 20 fleets, do independent distributors handle national fleets
21 or is that just you?

22 A. Just me.

23 Q. You say the national fleets and the larger fleets.
24 I'd like you to give the jury an idea of how many units that
09:15:21 25 would involve to be a national fleet or a larger fleet?

Wapenaar - Direct

1 **A.** I think -- I always focus on the top 100, and the
2 Number 1 has probably \$68,000 to -- power units. And
3 hundreds probably in the 700, 7 or 800 power units. So
4 that's the range between Number 1 and Number 100.

09:15:46 5 **Q.** Sir, I'm going to show you what we've marked as
6 PX-101-1 through 3. I can -- I can do it here if you don't
7 mind. Thank you, Judge.

8 And so the first page of this document or this exhibit
9 is a certification of the records by Robert Costello, chief
09:16:23 10 economist and vice-president of American Trucking
11 Associations. Do you see that there?

12 **A.** It's a little vague but --

13 **Q.** And I'm going to flip to the last page of that
14 document.

09:16:39 15 **A.** That's better.

16 **Q.** Yeah. And if you could just read to the jury where
17 I'm pointing. This is regarding the size of most fleets in
18 the U.S.?

19 **A.** It says 90.1 percent operate fleets, operate six or
09:17:00 20 fewer trucks.

21 **Q.** And then the --

22 MR. ANASTOS: Sorry. I don't see the word
23 fleet in there.

24 **Q.** Yeah, you want me to -- just read along with me.
09:17:07 25 How's that? 90.1 percent operate six or fewer trucks?

Wapenaar - Direct

1 **A.** Yeah.

2 **Q.** Okay. I read that correctly, sir?

3 **A.** Say that again.

4 **Q.** I read it right?

09:17:17 5 **A.** Yeah.

6 **Q.** And here we've got 97.1 percent operate 20 or fewer
7 trucks, correct?

8 **A.** That's correct, yeah.

9 **Q.** Who's Groeneveld's competition in the ALS market in
10 the United States that you -- you're seeing? Whose stuff
11 are you seeing in your travels?

12 **A.** Basically before that I see on a continuous basis,
13 this is a Grease Jockey, also known as lubricant, also known
14 as Graco these days. That's probably the biggest one. Then
09:18:09 15 we have for Groeneveld, we're almost similar in size as
16 Grease Jockey. We see Lincoln. Lincoln is stronger in the
17 off-road market than they are in the truck market. And then
18 we have Volger. Those are the four I see on a fairly
19 regular basis.

09:18:32 20 **Q.** Are you seeing Volger in the on-road or off-road
21 market, or how is that working out?

22 **A.** Volger is more active in the fire equipment industry.
23 They have some good contacts there. And every once in a
24 while, you see them on just a regular truck as well.

09:19:19 25 **Q.** Okay. Can you tell the jury what this pump is? And I

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1 will have a picture of it as well.

2 **A.** That is the pump unit of a Lincoln progressive system
3 being used on big rigs, as well as off-road equipment.

09:19:54 4 **Q.** And one second. 130-1 -- and we're going to mark that
5 pump identified for the record as PX-130-1. And can you
6 confirm, sir, that this photograph we've marked Exhibit
7 45 -- there we go. That's a picture of the Lincoln that we
8 have here in court?

9 **A.** It's a similar one, yeah.

09:20:18 10 **Q.** Is it different or?

11 **A.** No, it's -- the pump -- it's a different pump.

12 It's -- maybe I -- it's not the same pump, say it that way,
13 but comes out the same factory. I don't mean to confuse you
14 a little bit.

09:20:34 15 **Q.** You're saying the picture is not a picture of the same
16 pump that's on that table?

17 **A.** Correct, correct.

18 **Q.** Okay. But, it's the same model?

19 **A.** Same model.

09:20:40 20 **Q.** All right. And is this the Lincoln that you come
21 across in your travels in the U.S.?

22 **A.** That is correct. As you can see on the picture, this
23 unit is mounted on the truck as well. Of course, that white
24 thing you see over there, that is the frame of the truck.

09:21:12 25 **Q.** And, sir, I'm showing you this picture that we've

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1 marked Plaintiff's Exhibit 41. Can you tell the jury what
2 this is?

3 **A.** That is a pump, Vogel system.

4 **Q.** Says SKF on it, too. What's that about?

09:21:31 5 **A.** I think about a year, maybe two years ago, SKF bought
6 Vogel and I guess they put a sticker on it.

7 **Q.** SKF has acquired recently another company as well. Is
8 that accurate?

9 **A.** That is accurate.

09:21:49 10 **Q.** And can you tell the jury which company that is?

11 **A.** The pump you see there on the table, and we saw prior
12 on the screen, Lincoln unit.

13 **Q.** The PX-130-1?

14 **A.** Yeah.

09:22:00 15 **Q.** And then the picture that I showed you, what was that,
16 45? Let me just check and confirm. Yeah, 45?

17 **A.** Yeah.

18 **Q.** SKF bought them recently as well?

19 **A.** Yeah. So they now own Vogel and Lincoln.

09:22:23 20 **Q.** This picture of the SKF Vogel, Exhibit 41, my
21 understanding there is different kinds of Vogel; is that
22 right?

23 **A.** That is right.

24 **Q.** What's the Vogel that you see in your travels in the
09:22:45 25 U.S.? Which pump is being used in the U.S., you see?

Wapenaar - Direct

1 **A.** The one you have on the screen right now.

2 **Q.** Thank you. Do you see others, other Vogels or this is
3 the one you're seeing?

4 **A.** This is the one.

09:23:07 5 **Q.** And I'm going to -- I'm going to show you a few more
6 pictures of pumps to see if you see any of those in the
7 U.S., some names have come up in this case. I'm showing you
8 Exhibit 40. It says Bijur and Delimon. Do you see that
9 picture here?

09:23:30 10 **A.** The pump you mean?

11 **Q.** Do you see the picture?

12 **A.** I see the picture, yeah.

13 **Q.** Have you ever seen this pump in the market or the
14 field?

09:23:36 15 **A.** No, ma'am.

16 **Q.** Have you heard of this company?

17 **A.** I've heard about Bijur, but it was in my time in
18 Europe.

19 **Q.** Now what about this pump, Exhibit 43?

09:24:03 20 **A.** That is a lubricate Grease Jockey Graco unit.

21 **Q.** Do you see this kind in the field?

22 **A.** Yeah.

23 **Q.** And what kind of system is this?

24 **A.** This is the LubriQuip system.

09:24:21 25 **Q.** Well it says Graco. Why are you calling it LubriQuip

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1 and Grease Jockey?

2 **A.** Because it went on the market as Grease Jockey and
3 that's how you see it. That's how it's pictured in your
4 mind, at least in my mind.

09:24:47 5 **Q.** Okay. When you talk about the Grease Jockey LubriQuip
6 Graco pump being the one that you see in the field as your
7 real competition, is this the item you're referring to, the
8 PX-43?

9 **A.** You mean this particular unit?

09:25:03 10 **Q.** Yeah.

11 **A.** No, it's more of the earlier one you showed earlier,
12 with the rubber back.

13 **Q.** The rubber one? Gosh. Now I am really going to get
14 dirty. Is that this one?

09:25:14 15 **A.** That is the one that is normally installed on the
16 trucks.

17 **Q.** And we're going to mark this one 130-2. How do you
18 know this is a Grease Jockey?

19 **A.** Just by seeing it.

09:25:31 20 **Q.** Well, can you see a label from where you're sitting?

21 **A.** No.

22 **Q.** How do you know it's a Grease Jockey? How do you know
23 it's a LubriQuip?

24 **A.** The shape of the unit, it's -- the back, it's just the
09:25:43 25 specific things.

Wapenaar - Direct

1 **Q.** Sorry about that. Don't want to make a mess with the
2 equipment. Oh, for the record, I'm showing you what we've
3 marked as Plaintiff's Exhibit 42. And can you confirm,
4 please, that that's a picture of the rubber back Grease
09:26:21 5 Jockey Lubriquip pump we see on this table here, 130-2?

6 **A.** Yes.

7 **Q.** Here I'm showing you a picture, PX-44 of something
8 that says Robert Shaw and Interlube, do you see that?

9 **A.** Yes, ma'am.

09:26:53 10 **Q.** This a pump you've come across in the U.S. since
11 you've been here, I guess what, since '93 or something? You
12 see this on the road?

13 **A.** Yeah. Yeah, fewer, fewer of than the Grease Jockey
14 but every once in a while, I see it on trucks. Half the
09:27:10 15 people are familiar in Ohio. I assume you guys are all
16 familiar with Ohio roadway used in this system for a long
17 time, but they don't use it anymore. As a result, the
18 system dropped 75 percent, I guess.

19 **Q.** A name of a company that's come up in this case is
09:27:48 20 Beka Lube. Can't find any, but I found a web site
21 somewhere, and I'm marking it a printout from Exhibit 46.
22 And you see these kinds of pumps in the U.S.?

23 **A.** No. I've heard the name before, but I don't see them.

24 **Q.** Exhibit 47-1, I'd better make this a little smaller to
09:28:22 25 fit on the screen, 47-1. And then here's Page 2, which is

Wapenaar - Direct

1 47-2. Do you see these pumps in the United States?

2 **A.** No, ma'am.

3 **Q.** Have you heard of the company?

4 **A.** Oh, yeah.

09:28:42 5 **Q.** What's the name of the company?

6 **A.** Sterk.

7 **Q.** What did you say?

8 **A.** Sterk.

9 **Q.** S-T-E-R-K?

09:28:48 10 **A.** Yes, ma'am.

11 **Q.** How do you know that's a Sterk pump because it doesn't
12 say Sterk pump?

13 **A.** No, but I recognize it as a Sterk pump.

14 **Q.** How?

09:29:01 15 **A.** Because of the shape.

16 **Q.** I'm going to show you this pump, 83-1. Is this one
17 you're seeing in the U.S. at all?

09:29:31 18 **A.** I see those every once in a while. The -- basically
19 the same units as you have on the table there, but the
reservoir is different.

21 **Q.** I need you to explain that to the jury. Are you
22 referring to this pump as the same?

23 **A.** Yes.

24 **Q.** And so for the record, that's 130-2, and how -- what
09:29:47 25 do you mean it's the same pump because the reservoirs are so

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1 obviously different?

2 **A.** You see the hose clamp that sits on the bottom of the
3 reservoir.

4 **Q.** Sorry. I didn't even hear you?

09:29:58 5 **A.** The hose clamp, the thing that sits on the bottom of
6 the reservoir -- a little higher, yeah -- if you take that
7 off, you can take the top off and you can put a rubber back
8 on there, and you have a pump like you have on the table
9 there.

09:30:17 10 **Q.** So the base of --

11 **A.** The base is exactly the same.

12 **Q.** And I just need to make sure my record's clear. The
13 base of the picture in -- base in the pump of the picture,
14 that's 83-1, is the same base as the pump we have here
15 that's 130-2?

16 **A.** That is correct.

17 **Q.** I've got to just show you a few more to authenticate
18 things for down the road. Okay. Sorry about that. Sorry.
19 PX-130-1, can you confirm that that is also a picture of the
20 Lincoln that we see here on the table, 130-1?

21 **A.** That is correct.

22 **Q.** And then the picture that we took a look at earlier of
23 the Lincoln, which is 45?

24 **A.** Correct.

09:31:37 25 **Q.** I got here a picture of a pump, 130-2. You see this

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1 guy in the United States?

2 **A.** Not at all.

3 **Q.** What is it? Do you know who makes this one?

4 **A.** No.

09:32:05 5 **Q.** Here's something -- a popular -- I'm showing you a
6 picture of a pump, 131-3. And it's hard to see, but the
7 label says Vogel?

8 **A.** Yeah. I have seen that before. That's more a unit
9 that is installed on off-road equipment. You hardly see
09:32:25 10 that on the big rigs as we know it.

11 **Q.** The big rigs being the semi tractor trailers?

12 **A.** Yes, ma'am.

13 **Q.** The Class A trucks?

14 **A.** Yep.

09:32:34 15 **Q.** So I want to make sure I'm clear. You do or don't see
16 these on the big trucks in the U.S.?

17 **A.** I never saw them before.

18 **Q.** And here we've got this picture like I said. I know
19 it seems repetitive, but there's a method to the madness.

09:32:59 20 PX-131-4, can you confirm for us that this is a picture of
21 the Grease Jockey LubriQuip pump we have here on the table
22 130-2?

23 **A.** Yes, ma'am.

24 **Q.** And then the other picture we saw earlier?

09:33:15 25 **A.** It's the same, yeah.

Wapenaar - Direct

1 **Q.** 42, Exhibit 42. Okay.

2 Oh, here's one. I'm showing you now what we've marked
3 as Exhibit 132-1, and it's got a red label around the top
4 and the bottom, the band. And it says Ciaponi,
09:33:48 5 C-I-A-P-O-N-I. Have you ever seen this pump before?

6 **A.** No, ma'am.

7 **Q.** Anywhere?

8 **A.** No.

9 **Q.** Have you ever heard of a -- of an ALS system
09:33:59 10 manufactured distributed by a company called Kumho
11 K-U-M-H-O?

12 **A.** No.

13 **Q.** So the Lincoln system that you see in the U.S., can
14 you describe where that one is used, what kind of
09:34:30 15 application and basically what kind of system that is as
16 compared to the Groeneveld EP-0 auto lube single-line pump?

17 **A.** They're bolted, used on Class A trucks, but the big
18 difference is Lincoln system is a progressive system and
19 dispenses the same amount of grease out of all openings.
09:34:54 20 Groeneveld system has liter units, and we are able to shoot
21 different amounts of grease to different components. There,
22 for example, you have a kingpin that requires a lot of
23 grease -- maybe I'm getting a little too technical now, but
24 kingpin requires a lot of grease and trailer bearing, which
09:35:17 25 is a part of the clutch area, big wires, minute a mount of

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1 grease, and we are able to make those deliveries.

2 Q. And now the Grease Jockey Lubriquip product you see on
3 the road, which is here, this Exhibit 130-2, what kind of
4 system is that and on what applications do you see them?

09:35:45 5 A. The Grease Jockey system is very similar to Groeneveld
6 systems. So as a result, you use the same application as
7 our system. The big difference is the pump is completely
8 different.

9 Q. The big difference is the pump is what?

09:36:05 10 A. Is different, the Lubestar is a completely different
11 than the lubes of our system.

12 Q. And what about the lube of the Lincoln, which is the
13 other one you see in your work? Does that look the same as
14 the Groeneveld EP-0 to you?

09:36:18 15 A. No.

16 Q. Can you -- can you tell the three apart by looking at
17 them?

18 A. I think if I closed my eyes and I feel them, I can
19 tell the difference.

09:36:27 20 Q. So sounds like yeah.

21 A. But, I am specialist.

22 Q. Do you recognize them on sight?

23 A. Oh, yeah, absolutely.

24 Q. All right.

09:37:12 25 This SKF Vogel, Exhibit 431, you identified this as

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1 the Vogel you see in the U.S. Can you describe what kind of
2 system that is, how that one operates, and then the
3 applications where you see this guy?

4 **A.** The applications are more or less the same. The
09:37:30 5 working principle is a little different, but it's hard to
6 explain. So it's more or less similar, but again, same of
7 the pump is completely different.

8 **Q.** Do you recognize this one on sight as not being a
9 Groeneveld pump?

09:37:48 10 **A.** Absolutely.

11 **Q.** Do you need the label to tell you that it is not a
12 Groeneveld pump?

13 **A.** No. Many cases when those systems have been used for
14 a year or two, our label becomes unrecognizable because of
09:38:09 15 the dirt. So that's basically the -- that you train
16 yourself to look at the units as they are. The label for me
17 is not important.

18 **Q.** And I'd like to talk a little bit about Groeneveld's
19 marketing materials and sales efforts and promotional
09:38:35 20 materials. Are you familiar with those items?

21 **A.** I use them almost everyday.

22 **Q.** So I'm going to run through a few of those because I
23 need you to say yep, that's what they are. And before I do
24 that, though, let me ask you, how prevalent, how prominent
09:38:55 25 is the use of the picture of the Groeneveld EP-0 single-line

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1 pump in those materials and in your marketing presentations?

2 **A.** Again, the pump unit is basically our image, and you
3 will find it back on every brochure, numerous times.

09:39:27 4 **Q.** So we've marked here as Exhibit 3-1 through 4, a
5 document -- if you could just confirm for the jury that this
6 is a brochure for what product?

7 **A.** That's the brochure for the single-line system.

8 **Q.** Is that the one that we have in court here that this
9 case is about?

09:39:40 10 **A.** Yes, ma'am.

11 **Q.** All right.

12 And this one, 4-1 through 4-4, is this also a
13 representative brochure of the Groeneveld EP-0 single-line
14 ALS?

09:40:04 15 **A.** That is correct. This one is specifically used for
16 fire equipment. That's the reason why there's a fire truck
17 on the front.

18 **Q.** Same pump, though?

19 **A.** Yeah.

09:40:28 20 **Q.** Here's something interesting. PX-6-1 through 6-4,
21 what is -- what is that system depicted in this brochure?

22 **A.** We call it the Trail Lubrication System.

23 **Q.** Is it a single-line EP-0 system?

24 **A.** Yes and no.

09:41:05 25 **Q.** Well, okay, can you just explain?

Wapenaar - Direct

1 **A.** The big difference with this unit is that it's being
2 used for trailers. Trailers usually have fewer gross
3 points. And they have a slider. A slider is where the
4 wheels are connected to make it simple. We design this
09:41:28 5 system that mounts on that slider, and it doesn't have the
6 main line, and the main line on the single-line system is
7 designed to shoot the grease, as you can see in this
8 picture, the other one.

9 **Q.** Which other one? This?

09:41:54 10 **A.** Yeah. You see that red --

11 **Q.** Just for the record, the witness is describing the
12 diagram in PX-4-2. Continue. Thank you.

13 **A.** You see in this picture, you have different
14 distribution blocks, you have that red thing that is a main
09:42:12 15 line, and you have the pump. What we did, convolute the
16 trailer lubrication system, put all the components in one.
17 As a result, the main line was obsolete. Also you may --
18 makes it more complex. You can mount it on the suspension
19 of the trailer, and it makes life a lot easier. You don't
09:42:34 20 have to spend all the time on the labor. So it's compact,
21 simple to install, and cost effective.

22 And the single line is basically deferred to that red
23 main line I was talking about.

24 **Q.** And here's a picture of some -- why don't you tell the
09:43:01 25 jury what it is, PX-7-1?

Wapenaar - Direct

1 **A.** These are the service trucks of our technicians,
2 drivable. Then those guys drive to the place of
3 installation, do their job, and come back home again.

4 **Q.** And here is 7-3. I -- the reverse side of that truck?

09:43:23 5 **A.** It's the same truck, yeah, but the other side.

6 **Q.** And the picture of single-line pump that's the subject
7 of this case is on that delivery van?

8 **A.** Say that again, please.

9 **Q.** You see the picture of the single-line pump there?

09:43:41 10 **A.** Yes.

11 **Q.** Did I do this one, 7-2 with -- can you tell the jury
12 what that one is?

13 **A.** I know what it is, but you have to move it over a
14 little bit.

09:43:52 15 **Q.** Oh, I'm sorry. How's that?

16 **A.** That's also a service truck with a single-line pump as
17 a decal.

18 **Q.** Okay. And, sir, we've marked this as Plaintiff's
19 Exhibit 10-1 through dash 60? Can you tell the jury what
20 this is?

21 **A.** This is a service manual that describes the different
22 systems, how they work. It's a tool for the technicians
23 to -- if they need to service the system, to educate
24 themselves, how to do that.

09:44:37 25 **Q.** And what kind of pump is this one? What kind of

Wapenaar - Direct

1 system is this one?

2 **A.** That's a single -- single line electric pump.

3 **Q.** And this guy?

4 **A.** That's a single-line electric piston pump.

09:44:55 5 **Q.** And this one here?

6 **A.** That's the single line, pneumatic pump.

7 **Q.** The picture of that pump is black and white here, and
8 there's no label on it. How do you know it's a Groeneveld
9 single-line EP-0 pump?

09:45:13 10 **A.** In -- I said it before. It's -- of course, the shape
11 of the unit.

12 **Q.** We've marked this document, Plaintiff's Exhibit 11-1
13 through 33. Can you tell the jury what this is as well?

14 **A.** Yeah, this is a parts catalog, all the parts necessary
09:45:34 15 to do the repairs on the units that are listed there.

16 **Q.** 12-1 through 12-13. Can you tell the jury what this
17 is, please?

18 **A.** This is, I believe, the Canadian version of the parts,
19 parts to the catalog.

09:46:00 20 **Q.** How often does Groeneveld use pictures of its
21 single-line flagship pump in its promotional and marketing
22 materials?

23 **A.** All the time. Of course, again, it's our image. So
24 why shouldn't you make use of your image?

09:46:33 25 **Q.** Here we've marked this guy, PX-14-1 through 55. Can

Wapenaar - Direct

1 you -- can you tell the jury what this item is?

2 **A.** This is a manual, specifically made for safe way.

3 Safeway is a grocery chain in the USA as well. And that is
4 a tool for the guys again to maintain the product. It's
09:47:04 5 basically a customized version of the one you saw before.

6 **Q.** And depicted on PX-14-5 is a picture of what?

7 **A.** A single-line pneumatic pump.

8 **Q.** That's a four liter, right?

9 **A.** Yes, ma'am.

09:47:19 10 **Q.** Same picture on PX-14-7?

11 **A.** Correct.

12 **Q.** And what about here 14-12, this diagram?

13 **A.** Same thing.

14 **Q.** What's it a picture of?

09:47:47 15 **A.** Pneumatic pump.

16 **Q.** Part of the whole system as well, parts of the system?

17 **A.** Say that again.

18 **Q.** It also shows the other parts of the single-line ALS
19 system?

09:47:57 20 **A.** Correct. You see the time on the left and the
21 distribution on the right. That's an exploded view of the
22 single-line pump.

23 **Q.** And for the record, that's 14-17. What do you mean
24 by -- what is exploded view here?

09:48:12 25 **A.** Look inside, or a version, whatever you want to call

Wapenaar - Direct

1 it, took a piece out of it so you can see the components
2 inside.

3 **Q.** And why do you -- why don't Groeneveld include a
4 picture of that that shows the components that are inside
09:48:33 5 the pump as opposed to just outside?

6 **A.** I think if you need to maintain the system, it's nice
7 to know how the inside looks like so that you can have an
8 idea how the system works and if it needs trouble shooting,
9 then you know where to go.

09:48:48 10 **Q.** And you have to cut away part of the outside of the
11 pump in order to see what's going on in there?

12 **A.** Yeah.

13 **Q.** I'm not going to go -- in your travels, and in your
14 sales presentations, do you do Power Point presentations as
09:49:09 15 well where the image of the pump is also integrated into it?

16 **A.** Yeah.

17 **Q.** I'll just show you what we've marked PX-15-1 through
18 23, and I'll just page through it so you see it on here.
19 And can you tell the jury what that is, Exhibit 15?

09:50:03 20 **A.** I don't know it.

21 **Q.** I thought I got it from you.

22 **A.** No.

23 **Q.** Okay. Then I won't ask you any questions about it.
24 Maybe this one, 17-1 through 17-29. Can you tell the
09:50:19 25 jury what this is?

Wapenaar - Direct

1 **A.** What I see right now or --

2 **Q.** Yeah, on the screen.

3 **A.** The Groeneveld.

09:50:34 4 **Q.** Is this part of a presentation, one of your Power

5 Point presentations?

6 **A.** That is one of my Power Point presentation, yeah.

7 **Q.** All right.

8 And what is it, a Power Point presentation, slide by
9 slide?

09:50:44 10 **A.** Yeah, I can either show it on my laptop or my iPad,
11 and I always say a picture tells you more than a thousand
12 words. And so, therefore, I use it quite a bit.

13 **Q.** Here on Page 17-3, the pumps on -- in these pictures,
14 just can you just tell them what it is?

09:51:11 15 **A.** They're both single line. They are -- the one on the
16 left is, again, the pneumatic pump we have on the table
17 there, and the one on the right is the electrician version.

18 **Q.** And is this a blowup on 17-5 of the pneumatic single
19 line?

09:51:31 20 **A.** That is correct. This is the unit mounted on a Class
21 A truck. Also the pneumatic single line.

22 **Q.** And the pump is here?

23 **A.** Yeah. Same thing, yeah.

24 **Q.** Okay. Okay.

09:52:09 25 We have one more of this group. Can you tell the jury

Wapenaar - Direct

1 what this is, PX-19?

2 **A.** That is what we call a cut-away pump, yes, the pump
3 that is in that box, and we took material out.

09:52:27 5

4 **Q.** When you say that box, you're talking about your
travel box here?

6 **A.** The travel box, yeah. We took the material out the
7 front to allow the customer to look into the unit. And
8 basically, it makes it easier to explain how the unit works.

9 **Q.** Okay.

09:52:53 10 We don't have to spend a lot of time on it, but can
11 you open up that travel box that we've marked for
12 identification?

13 **A.** Sure.

14 **Q.** And just show them what's in there. Exhibit 128.

09:53:19 15 **A.** This is what we were talking about, a single-line
16 pump. It's a smaller version of the one that you see on the
17 table over there.

18 **Q.** And that's the cut away?

19 **A.** That's the cut away.

09:53:29 20 **Q.** Okay. And you can -- you can put it back and then
21 step back to the box. I'm afraid they're not going to get
22 you. You're not in the microphone.

23 Just describe what's in there and how you integrate
24 the items in the box into your sales presentation to the
09:53:48 25 national fleets customers that you handle?

Wapenaar - Direct

1 **A.** Again, the components in the box are a cut-away pump,
2 a pump you took the material away from so the customer can
3 look into the unit. It is easier to explain how the unit
4 works. We have an electronic timer in the unit, in the box.
09:54:08 5 Time triggers the system on the timely basis. We have
6 distribution block in the box. Distribution blocks are the
7 blocks that amount in the frame roll on this. You find the
8 units that shoot the grease to the components.

9 Again, when I go to a customer, I first introduce
09:54:33 10 myself and we get going. I open the box, and I start to
11 present the system itself through the Power Point
12 presentation. And when I go through the Power Point
13 presentation, and I get to the pump, I take the pump out and
14 explain the pump, how it works.

09:54:53 15 The same thing I do with the timer, and the solder and
16 the distribution block.

17 **Q.** Thank you.

18 Sir, at some point, you learned that you learned of a
19 company called Lubecore, correct?

09:55:21 20 **A.** That's correct.

21 **Q.** Can you describe to the jurors how all that came about
22 in a -- and when it came about, please?

23 **A.** I think it was early '90, early 2009, one of my
24 colleagues showed me a vague brochure of Lubecore, and we
09:55:46 25 talked about it, and we see more things we didn't pay much

Wapenaar - Direct

1 attention to, but apparently, they're still around. Again,
2 we didn't talk about it for just too much, too much until
3 later that year.

4 Maybe I want to add at that time the unit was not in
09:56:19 5 the USA yet, and it was only in Canada to the best of our
6 knowledge.

7 Q. I'm so -- I'm way back here. I have real trouble
8 hearing. I don't know if you can lean into that mike. But,
9 I'm way back here, and this room is really big and I want to
09:56:33 10 just make sure I hear you.

11 A. Okay.

12 I said -- to the best of our knowledge, that unit was
13 not available in the USA yet at that time.

14 Q. The Lubecore?

09:56:42 15 A. The Lubecore.

16 Q. Can you describe the brochure the colleague showed
17 you?

18 A. No. So vague. I saw some images, and that's about
19 it.

09:56:57 20 Q. I'm just going to show you and ask if you recognize
21 this item? We've marked it PX-81. If I come too close, I
22 have -- so you can read it. I don't know if you do
23 recognize it or not. I'm just asking. This information
24 sheet, have you seen this before?

09:57:21 25 A. I think I've seen it before, yeah.

Wapenaar - Direct

1 **Q.** Do you remember where or the circumstances of that?

2 **A.** No, I cannot tell you that.

3 **Q.** Was it in your job or in the field?

4 **A.** More than likely, but perhaps on one of those truck
09:57:39 5 shows.

6 **Q.** So somebody showed you a picture, and you shrugged and
7 then what happened next in the series of events?

8 **A.** The next event related to Lubecore was that our
9 service manager, Todd Amos, he did -- it was late in that
09:58:03 10 year. He did an installation check up on unit installed by
11 Fuel Systems, and he did this job and looked around, and
12 what he found was that Fuel Systems --

13 MR. ANASTOS: Objection.

14 THE COURT: Objection sustained.

09:58:25 15 THE WITNESS: Fuel System is the one --

16 THE COURT: You have to put another question
17 to the witness.

18 **Q.** Yeah, he sustained it so let me --

19 **A.** Oh, I'm sorry.

09:58:29 20 **Q.** That's okay.

21 When Todd Amos returned from Fuel Systems, did he show
22 you a photograph of what he found in Wisconsin?

23 **A.** Yeah. When he came back to the office, he showed as a
24 photograph with -- first of all, relabeled pump on it. What
09:58:50 25 I mean by that, it was a Groeneveld pump, whereby all the

Wapenaar - Direct

1 Groeneveld indicators were removed, and a Fuel Systems
2 sticker was stuck on there.

3 **Q.** And I'm showing you, sir, what we've marked as
4 Plaintiff's Exhibit 70. And can you tell the jury what that
09:59:09 5 picture depicts, please?

6 **A.** Yeah, that picture is a -- can you get it back a
7 little further?

8 **Q.** Oh, I can. Back, meaning closer or farther?

9 **A.** Farther away.

09:59:24 10 **Q.** Oh, I can't get it farther away.

11 **A.** Okay. That picture showed you a Groeneveld
12 single-line pump as it's there on the table with the ID
13 plate removed. The ID plate is right there, yeah. And also
14 the sticker is removed, and the Fuel Systems put their own
09:59:43 15 sticker on there.

16 **Q.** It's hard to see in the picture, but is that what is
17 here, where I'm indicating?

18 **A.** That's -- Fuel Systems automatic lubrication system.

19 **Q.** And now what color is that label, Fuel Systems label?

10:00:02 20 **A.** Most part is transparent.

21 **Q.** What color is in this picture right here? What color
22 is this label? Oh -- oh, what -- is it the grease behind it
23 that's --

24 **A.** The grease behind it.

10:00:17 25 **Q.** Sorry about that. And was Fuel Systems a distributor

Wapenaar - Direct

1 of Groeneveld at the time?

2 **A.** Yeah. As I indicated before, Groeneveld was a
3 distributor for many years, and --

4 **Q.** You mean Fuel Systems was a distributor for many
10:00:37 5 years? I think you said Groeneveld, but it's hard for me to
6 hear. Sorry.

7 **A.** Sorry. Fuel Systems was a distributor for Groeneveld
8 for many, many years.

9 **Q.** During that time period, was Fuel Systems authorized
10:00:48 10 to sell or distribute any competing automatic lubrication
11 systems or parts?

12 **A.** No.

13 **Q.** Does Groeneveld authorize any of its independent
14 distributors to handle other competitors' products and,
10:01:12 15 specifically, ALS products?

16 **A.** Absolutely not.

17 **Q.** Does Groeneveld authorize independent distributors to
18 remove the Groeneveld label and put its own label on your
19 pumps or other ALS products?

10:01:30 20 **A.** Absolutely not.

21 **Q.** Do they apparently do it anyway sometimes?

22 **A.** All the time.

23 **Q.** Does Groeneveld authorize its third party installers
24 or distributors to use competitor parts and components with
10:01:50 25 the Groeneveld ALS EP-0 system or any Groeneveld system?

Wapenaar - Direct

1 **A.** No.

2 **Q.** Why not?

3 **A.** Because we didn't make the parts. We have no control
4 over the quality.

10:02:07 5 **Q.** Okay?

6 **A.** The question is are the measurements the same? So,
7 therefore, we say we cannot use them.

8 **Q.** I'm showing you now what we've marked as Exhibit 58.
9 And can you tell -- maybe it goes this way. Can you tell
10:02:35 10 the jury what this picture depicts? I don't know. Let's go
11 this way or this way.

12 **A.** Doesn't matter.

13 **Q.** All right.

14 **A.** This picture shows you a Lubecore main line that Todd
10:02:50 15 Amos found on the same installation that we're talking
16 about, the one that he found in the pump as well.

17 MR. ANASTOS: Objection.

18 THE COURT: Objection sustained.

19 **Q.** Where did you get the picture?

10:03:02 20 **A.** I got the picture from Todd Amos.

21 **Q.** And in his job -- as part of his job, did he make a
22 report to you and others at Groeneveld about what he found
23 in the field when he went on his visit to Fuel Systems?

24 **A.** Correct.

10:03:20 25 MS. MICHELSON: May I ask the question now,

Wapenaar - Direct

1 your Honor, or would you prefer me to move on?

2 THE COURT: Move on.

3 Q. And what ALS system is depicted in the photograph?

4 A. The Groeneveld ALS system.

10:03:32 5 MR. ANASTOS: Objection.

6 THE COURT: Overruled.

7 Q. When -- after you -- after you saw these photographs
8 and spoke with Mr. Amos, what did you and others do? What
9 did you do? How's that?

10:03:52 10 A. When we saw those pictures, of course, we were very
11 upset.

12 Q. Let me just stop you. When was this about?

13 A. I think that was somewhere in July of 2009.

14 Q. Okay. Continue. So you were very upset. Why?

15 10:04:08 A. I was very upset and, of course, the rules were broken
16 by one of our distributors.

17 MR. ANASTOS: Objection to the testimony about
18 what everybody else was --

19 10:04:21 THE COURT: Yeah. What's the relevance of
20 this?

21 Q. Well, I'm asking what he did to -- I'm just asking
22 what he did.

23 THE COURT: I'm asking what's the relevance of
24 this distributor with Lubecore?

10:04:30 25 MS. MICHELSON: The relevance I can -- the

Wapenaar - Direct

1 relevance is that they are handling both competitors parts
2 at the same time in a system that looks identical to ours,
3 and it contributes to likelihood of confusion in the
4 marketplace, identical. People know distributors are only
10:04:48 5 supposed to handle Groeneveld systems.

6 THE COURT: That's a different issue than this
7 case. The objection is sustained.

8 MS. MICHELSON: Okay.

9 Q. Did you visit Fuel Systems?

10:04:58 10 A. Yes, we did.

11 Q. Okay. And what happened with the relationship with
12 Fuel Systems after the visit? And you have to speak up so I
13 can hear everything and make sure that nothing objectionable
14 is coming out because I'm having a hard time. Can you lean
10:05:11 15 into that mike, please?

16 A. If I can pull it towards me.

17 Q. You have to speak louder in it.

18 A. Okay. Basically in a nutshell, the relationship came
19 to an end.

20 Q. And was that around the end of 2009?

21 A. It was probably in September, October, 2009.

22 Q. Okay.

23 And when the relationship ended, was Fuel Systems
24 authorized any longer to sell Groeneveld's system and ALS
10:05:47 25 parts?

Wapenaar - Direct

1 **A.** No, absolutely not.

2 THE COURT: This would be a good time to break
3 then?

4 MS. MICHELSON: Sure, Judge.

10:05:53 5 THE COURT: Okay. We'll take our morning
6 recess at this time. Thanks for your patience, folks, and
7 relax and 15, 20 minutes, thereabouts. Keep in mind the
8 admonition.

9 (Thereupon, a recess was taken.)

10:27:02 10 THE COURT: We're ready.

11 BY MS. MICHELSON:

12 **Q.** So we were talking about the distributorship with FSI
13 in Wisconsin, and I'd like you to tell the jury what you and
14 Groeneveld did next in terms of Wisconsin?

10:27:42 15 **A.** Do you mean --

16 **Q.** Related to the Lubecore -- go ahead.

17 **A.** Okay.

18 After the breakup, initially, I took it upon me to go
19 more off to Wisconsin because yeah, you lose the
20 distributors. So you still want to take care of your
21 customers. And somebody needs to do that in the
22 organization, and I did it. In my travels, I also met with
23 DeCleene. DeCleene is a refrigeration unit company that is
24 based in, close to Green Bay. It's a few more locations;
10:28:20 25 one in Milwaukee and one in Madison, I believe.

Wapenaar - Direct

1 Q. Is that Michael DeCleene?

2 A. Mike DeCleene is the owner, yeah.

3 Q. Okay. Continue.

4 **A.** So in --

10:28:30 5 Q. Wait. Why did you visit with Mr. DeCleene when you
6 went out there?

A. Say that again.

8 Q. Why did you visit with Mr. DeCleene when you went out
9 there?

10:28:39 10 A. They basically called me. So that makes it a little
11 different because I knew DeCleene already from past
12 experience and, of course, they heard about the situation
13 with the Fuel Systems as well, and they were sincerely
14 interested to become the main distributor for the State of
15 Wisconsin.

16 Q. When you started traveling more in Wisconsin at the
17 time you're talking about, did you meet with customers of
18 ALS products and pumps?

19 **A.** Yeah, initially. Of course, you're going to visit the
10:29:17 20 existing customers. And I believe in November, 2010, I met
21 with the Sheehy Company.

22 Q. Mr. Wapenaar, I -- just to refresh your memory, 2009,
23 November 2009, or 2010?

24 | A. 2010.

10:29:37 25 Q. Okay. Sorry about that. Continue, please.

Wapenaar - Direct

1 **A.** I'm thinking. I think it was 2010. Anyhow, I met
2 with the owner of the company, and we had a conversation in
3 the shop. It was a new truck sitting in that shop, and it
4 had a lube system on it. So from quite a distance, I saw
10:30:10 5 the unit, and say, hey, you're working on a Groeneveld
6 system, and he got a little quiet. No, this --

7 MR. ANASTOS: Objection.

8 THE COURT: Objection sustained.

9 **Q.** Did he tell you whose system he had actually
10:30:30 10 purchased?

11 MR. ANASTOS: Objection.

12 THE COURT: Objection sustained.

13 **Q.** Did you go look at it after initially thinking it was
14 a Groeneveld?

10:30:39 15 MR. ANASTOS: Objection.

16 **Q.** And find something else?

17 THE COURT: Just ask him what he did.

18 **Q.** What did you do?

19 **A.** I walked to that truck, looked at the system, and with
20 the ones I had at that time about the knowledge that I have
21 about the Lubecore system, I had to conclude that there was
22 a lube system from Lubecore installed on that truck.

23 **Q.** When you first saw the system, when you first saw the
24 pump, what did you think, what did you see?

10:31:10 25 **A.** I said it before. I thought I saw a Groeneveld system

Wapenaar - Direct

1 with a Lubecore sticker on it.

2 **Q.** Why?

3 **A.** Of course, that's what I saw.

4 **Q.** What about -- what about the pump that you saw made
10:31:26 5 you think it was a Groeneveld system?

6 **A.** Is because it's -- it looks exactly the same like
7 Groeneveld system.

8 **Q.** And, what -- what -- just I need you to describe a
9 little what parts of it jumped out at you as looking just
10:31:41 10 like the Groeneveld system?

11 **A.** In all reality, the whole unit, except for the label
12 on the reservoir, and when I looked closer, I saw that the
13 filler coupling was mounted in a different angle kind of
14 loosed out and bleeding, hole was mounted on the other side
10:32:03 15 of the unit. Those were for me two points to determine that
16 it was a Lubecore.

17 **Q.** Well, so I'm --

18 MS. MICHELSON: Your Honor, can we get this
19 guy up? Thank you so much. Thank you, Judge. I'm showing
20 you now what's been previously marked and identified as a
21 Lubecore six-liter pump. Do you see that in the picture in
22 front of you, Exhibit 50?

23 **A.** Yes, ma'am.

24 **Q.** Okay. And you said that upon further scrutiny of the
10:33:00 25 product you saw at Mr. Sheehy's place, you were able to

Wapenaar - Direct

1 determine that it was not a Groeneveld, right?

2 **A.** Correct.

3 **Q.** And you identified two things; a bleeder hole, and the
4 angle of the filler?

10:33:14 5 **A.** The way the filler coupling is mounted.

6 **Q.** And can you -- I think you can -- if you point on the
7 screen, you should be able to indicate to us, does it work
8 for you, is that it?

9 **A.** Yes.

10:33:30 10 **Q.** So this right here I'm going to circle and then where
11 is that bleeder hole that you are talking about?

12 **A.** The bleeder holes are on the side of the unit. Ours
13 is here. Lubecore is on this side.

14 **Q.** So Lubecore is here?

10:33:47 15 **A.** Yes. But, you cannot see it in the picture.

16 **Q.** I'm going to bring this to you and ask you to show the
17 jury -- hold on. Can you show the jury what you just
18 described the bleeder hole? Were you able to find that
19 different location?

20 **A.** Groeneveld has the bleeder hole on this side. This is
21 the hole, let the air escape, and it goes up, and sorry.
22 When you out fill and the grease cannot escape, and at some
23 point, something needs to go. So the reservoir is closed.
24 To avoid that, we have a hole on the side of the pump. So
10:34:54 25 as soon as you go above maximum level, then the grease can

Wapenaar - Direct

1 escape through this little hole and you see grease coming
2 out.

3 Lubecore, as it's sitting on this side of the pump,
4 that's an indication, plus the way the base of the filler
10:35:16 5 coupling is different than ours as an indication. Now in
6 our unit, also the filler plate is a different color.

7 Q. And so -- thank you. I don't want to leave it there
8 in case it's leaking. So let me just go grab that.

9 MR. ANASTOS: Objection.

10:35:34 10 MS. MICHELSON: Oh, I'm sorry -- I mean all of
11 them leak. I mean out of the holes where -- I'm sorry. I
12 didn't mean it that way.

13 THE COURT: Well, you got a reaction out of
14 her.

10:35:46 15 MS. MICHELSON: I apologize. I really did not
16 mean it that way.

17 Q. So, sir, once you were able to determine -- let me see
18 if this refreshes your memory as to when you went out to
19 Wisconsin and met with Mr. Sheehy. I'm going to just show
10:36:14 20 you some testimony here in the case, ask you to read it to
21 yourself.

22 A. It was 2009.

23 Q. Well, let's check? Okay.

24 A. Yep, I was wrong. I apologize.

10:36:32 25 Q. That's okay. You can put that down. So once you

Wapenaar - Direct

1 figured out it wasn't a Groeneveld but had those differences
2 you described, what happened next?

3 **A.** Basically we talked about the business and we said
4 good-bye.

10:37:02 5 **Q.** Did Mr. Sheehy tell you why he had purchased the
6 Lubecore instead of the Groeneveld?

7 MR. ANASTOS: Objection.

8 THE COURT: Objection sustained.

9 **Q.** How long was your conversation with Mr. Sheehy?

10:37:17 10 **A.** About a half an hour.

11 **Q.** And had you had any interaction with Mr. Sheehy since
12 November of 2009 at his facility?

13 **A.** When I visited him a couple times, yeah.

14 **Q.** How, if you know, how long before the November 2009
15 visit had Mr. Sheehy been a Groeneveld customer?

16 **A.** At least for the last ten, 12 years.

17 **Q.** And is he purchasing for his company, Groeneveld
18 products once again?

19 **A.** We did sell systems after -- in the next year, early
20 2010.

21 **Q.** And what system precisely did Groeneveld sell
22 Mr. Sheehy for his fleet?

23 **A.** The same old system, the single-line system.

24 **Q.** The one we are in court here about?

10:38:20 25 **A.** Correct.

Wapenaar - Direct

1 Q. In your travels did you also in your travels to
2 Wisconsin, did you also meet with people from Millis
3 Transfer?

4 MR. ANASTOS: Objection to the leading.

10:38:37 5 THE COURT: Overruled.

6 Q. You may answer.

7 **A.** I indeed visited Millis Transfer. Of course, I think
8 that's one of our biggest customers in the state of
9 Wisconsin.

10:38:49 10 Q. And how long a period of time had Millis Transfer been
11 a Groeneveld customer?

12 A. Oh, it's at least 20 years.

13 Q. And why did you visit Millis Transfer at the -- at the
14 time in this time frame we're talking about?

10:39:08 15 A. I just wanted to stay in touch with them and inform
16 them about the situation that was going on in the State of
17 Wisconsin. So I had a meeting with Mrs. Scott Powell who
18 was the director of fleet maintenance. And I told them the
19 situation that Fuel Systems no longer represents the
20 products of Groeneveld. And that they switched to a
21 different custom. So he was very, very surprised because

MR ANALYSTS: Objection

THE COURT: Go ahead

24 8 You may continue

A. He was very surprised because he didn't hear anything.

Wapenaar - Direct

1 about it yet.

2 Q. Had he been purchasing Groeneveld products through
3 Fuel Systems?

4 A. All the time.

10:39:55 5 Q. And after the relationship severed between Groeneveld
6 and Fuel Systems, did his company purchase some Lubecore
7 products?

8 A. They did without knowing.

9 MR. ANASTOS: Objection.

10:40:14 10 THE COURT: Objection sustained.

11 MS. MICHELSON: Your Honor, may we approach?

12 THE COURT: No.

13 Q. And let me think how to ask you this exactly right.
14 Tell us how you discovered that there were Lubecore parts at
10:40:37 15 Millis Transfer. How did you discover it?

16 A. Just by going into the parts store. I talked to Eric
17 Hugh, who is the manager of that room, and I just bluntly
18 asked him let me see a couple parts and --

19 Q. And did you look at a couple of parts?

20 A. I looked at a couple of parts.

21 Q. And are they part -- were they parts for an EP-0 pump?

22 A. They were.

23 Q. And what did you see in your hands?

24 A. I saw, for example, that guide lot that sits in the
10:41:15 25 center of the reservoir, it's very easy to identify if it's

Wapenaar - Direct

1 a Lubecore or a Groeneveld. The Groeneveld unit is using a
2 shiny guide drop and Lubecore is using a grayish flat guide
3 drop and indeed he had the ones that were manufactured by
4 Lubecore in his vents.

10:41:40 5 Q. And did you alert him to that?

6 A. Yeah.

7 Q. And what was his reaction?

8 MR. ANASTOS: Objection.

THE COURT: Objection sustained.

10:41:49 10 Q. Has Millis Transfer since returned to purchasing
11 Groeneveld parts and systems?

A. That is correct.

13 Q. Can you describe for the jury that please when and
14 what and?

10:42:10 15 A. We set up a program because I think they had some
16 special pricing through Fuel Systems. So we needed to match
17 that and we set up a program with Millis Transfer to deliver
18 the parts from that point on. At that time, when they had
19 new equipment, they bought I think 350 trailers last year.
10:42:37 20 And, of course, we were able to submit our pricing and we
21 got the base at that point. This year they bought I think
22 325 trucks. Same thing? We got the business. And to the
23 best of my knowledge, Fuel Systems is no longer selling
24 lubrication parts to Millis.

10:42:57 25 Q. And what kind of -- if you don't understand my

Wapenaar - Direct

1 question, tell me, and I'll rephrase it. Okay?

2 **A.** Sure.

3 **Q.** What kind of corrective action did you have to take in
4 order to address the Wisconsin customer's purchasing of
10:43:27 5 these Lubecore parts and systems as you've described? Long
6 question. You want me to rephrase it?

7 **A.** You already know the answer I guess.

8 **Q.** What did you have to do to fix it? How's that? I
9 like that question better.

10:43:40 10 **A.** I don't think we had to do anything to fix it, just to
11 visit the people, build up the relationship again and just
12 make the best out of it. Some decided to stay with Fuel
13 Systems and majority, I think, came back to Groeneveld.

14 **Q.** Okay. So you -- you had to go out there and meet with
10:44:01 15 people and talk to them?

16 **A.** Yes.

17 **Q.** And did you have to explain to them what was going on
18 and some differences in reintroduce your product to any of
19 them?

10:44:11 20 MR. ANASTOS: Objection.

21 THE COURT: Overruled.

22 **Q.** Just explain it to the jury, please.

23 **A.** Of course you have to explain the situation because
24 Fuel Systems was a distributor for over 25 years. So
10:44:23 25 everybody was kind of what's going on there. Distributor,

Wapenaar - Direct

1 but I think we were able to explain the situation in the
2 correct way and we basically gained confidence of those
3 customers, plus we were able to introduce at a later point
4 new vicinity to them, and I think that helped a lot to
10:44:52 5 salvage our business there.

6 **Q.** Sir, are you aware of other Groeneveld user customers
7 in Wisconsin who had bought Lubecores instead of Groeneveld
8 systems and parts during this time frame?

9 **A.** There are a few that I know. I assume you want to
10:45:13 10 hear them.

11 **Q.** Well, yeah.

12 **A.** Or the jury.

13 **Q.** If you can't remember them all, okay, but if you can
14 give the jury a rough idea of a few of them.

10:45:20 15 **A.** A company called HO Wolding in Amherst, Wisconsin,
16 that is buying Lubecore systems at this point. A company,
17 Qual Graphics in Sussex, Wisconsin, buying the Lubecore
18 systems. Milwaukee County has bought some Lubecore systems.
19 Same amount in Dodgeville bought Lubecore systems. So,
20 yeah, there are quite a few, few customers that knowingly or
21 unknowingly, I don't know, bought the Lubecore product.

22 **Q.** Now, after the relationship with FSI, terminated the
23 Groeneveld relationship with FSI, did you discover they were
24 still selling your product in the Wisconsin area or
10:46:16 25 installing it, whatever the term is?

Wapenaar - Direct

1 **A.** It's basically both.

2 **Q.** Okay. Can you --

3 **A.** Surprisingly, I think it was in 2010, Milwaukee
4 County, they buy by bit. That means the supplier has to
5 deliver a bit, and the County is going to approve or
6 disapprove the bit. They approved the bit that included the
7 Groeneveld lube system as a result for the length of that
8 contract all the trucks that are delivered will have to have
9 an automatic lubrication system from Groeneveld.

10:46:57 10 Surprisingly after the break-up with Fuel Systems, I found
11 out that trucks that were delivered after that time still
12 had the Groeneveld system on it. So after further
13 investigation, it appeared that Fuel Systems had to install
14 those trucks with a Groeneveld system.

10:47:25 15 **Q.** Did you understand what was going on when you
16 discovered that? How could that be? When you discovered it
17 let me withdraw -- I asked two questions. Did you
18 understand what was going on when you learned that that
19 happened. Did you know at that minute what was happening?

10:47:43 20 **A.** Yeah. That meant the Fuel Systems still had
21 Groeneveld inventory.

22 **Q.** Did you know that they had Groeneveld inventory?

23 **A.** No.

24 **Q.** If you had known, would you have taken some kind of
10:47:59 25 action about that?

Wapenaar - Direct

1 **A.** Absolutely.

2 **Q.** And can you tell the jury what that action would be if
3 you had known that information?

10:48:07 4 **A.** Especially to avoid those kind of situations as
5 happened at Waukesha County, we would have bought back all
6 the Groeneveld products at that point. If we should have
7 known.

8 **Q.** You've mentioned Mike DeCleene and if you could
9 just -- DeCleene Truck and Refrigeration, Trucking and
10 Refrigeration, you're going to meet them, but if you can
11 just describe the relationship that came about between his
12 business and Groeneveld, please, that would put things in
13 context?

14 **A.** We knew Mike DeCleene for many years already, of
15 course. They also had a connection with Fuel Systems in the
16 earlier days.

17 Needless to say that they approached us for a meeting
18 and they showed sincere interest to become our distributor.

19 **Q.** And did that come to pass?

10:49:06 20 **A.** Yes.

21 **Q.** And when did Mr. DeCleene's company become the
22 Groeneveld independent distributor in Wisconsin?

23 **A.** I think it was early 2010.

24 **Q.** Let's see now. I'm going to show you a picture.
10:49:25 25 Getting smaller. So thank you, your Honor. We've marked

Wapenaar - Direct

1 this PX-55. And do you recognize this photograph?

2 **A.** Yes, I do.

3 **Q.** How do you recognize it?

4 **A.** Because of the identity plate that is on there. The
10:49:53 5 little thingy.

6 **Q.** Let me rephrase it. Have you seen this picture
7 before?

8 **A.** No.

9 **Q.** Okay. Let me show you a different one.

10:50:14 10 Well, wait. I'm going to ask you a question about it,
11 PX-55. Looking at this picture, how are you able to tell,
12 you, able to tell that this is not a Groeneveld pump with a
13 Lubecore sticker?

14 **A.** The only identification you have on this particular
10:50:27 15 picture is that ID plate that sits up front of the pump. I
16 can't see anything else.

17 **Q.** Are the ID plates removable, similar to the labels?
18 Are they welded on or how does that work?

19 **A.** They're riveted on.

10:50:48 20 **Q.** You said rivets?

21 **A.** Rivet.

22 **Q.** Are the rivet, are they a removable thing?

23 **A.** I don't know.

24 **Q.** I'm going to show you Exhibit 50-1 here. I got 60-2.
10:51:15 25 Do you remember these pictures?

Wapenaar - Direct

1 **A.** Yes, I do.

2 **Q.** Okay. Did you take these pictures?

3 **A.** I took them myself.

4 **Q.** Can you tell the jury where and when approximately?

10:51:27 5 **A.** This was in a truck -- at a truck show, in the Green
6 Bay Wisconsin. After probably February 2010, after DeCleene
7 signed up as a distributor.

8 **Q.** Why did you take this picture?

9 **A.** I saw a lot of grease on the outside of the unit, plus
10 this was a customer of Groeneveld that bought numerous
11 lube -- yeah, lube systems through Fuel Systems.

12 **Q.** Before?

13 **A.** Before, yeah.

14 **Q.** Before Lubecore?

10:52:13 15 **A.** Before Lubecore, yeah.

16 **Q.** And -- I don't know, have -- have you sold any
17 Groeneveld things to this guy since?

18 **A.** Yeah, we did distribute those, also Lubecore.

19 **Q.** I did not understand what you said. I'm sorry?

10:52:25 20 **A.** We sold some systems to the customer as well, but
21 Lubecore did as well.

22 **Q.** Okay.

23 In your experience with your customers, is Groeneveld
24 having this same kind of problem with the leasing -- leaking
10:52:42 25 grease in its EP-0 pumps as you see here depicted in the

Wapenaar - Direct

1 picture?

2 **A.** Can you repeat the question.

3 **Q.** Is Groeneveld -- are Groeneveld pumps having this same
4 problem with the leaking grease that you see with the
10:52:57 5 Lubecore in the picture that's on the screen, Exhibit 60-1
6 and 2?

7 **A.** Not to that extent.

8 **Q.** What does that mean? Explain, please.

9 **A.** In -- there are oil rings in the bottom and they can
10:53:13 10 sweat a little grease through, but this is really pouring
11 out, if you can -- can you put the picture back on or --

12 **Q.** I don't hear you.

13 **A.** Can you put the picture back up?

14 **Q.** I'm sorry. I'm not kidding. It really is hard to
10:53:25 15 hear all the way back here. This machines goes and
16 everything, so. Here you go, 60-1?

17 **A.** You can see that the ID plate is completely covered
18 with grease. And that's very unusual.

19 **Q.** Can I take it away now?

20 **A.** Yeah.

21 **Q.** I'm now going to show you what we marked as 60 --
22 oops. 60-1 and 60-2. I'm sorry. It's 60-1? I need my
23 glasses and I'm losing my hearing and my sight. 61-1, 61-2,
24 and 61-3. Who took those pictures?

10:54:29 25 **A.** I did.

Wapenaar - Direct

1 **Q.** And when did you do that?

2 **A.** This was -- I think it was June last year at an event
3 for one of our customers. Had a fan appreciation day
4 everyday, and last year they had to, I think for years, 50th
10:54:55 5 anniversary so they had something special. They had a
6 special trailer. How you say, Julian Trailer, is it
7 English, Julian.

8 **Q.** A Julian?

9 **A.** No.

10 **Q.** Go ahead.

11 **A.** Special trailer.

12 **Q.** An anniversary trailer?

13 **A.** Yeah.

14 **Q.** Oh, okay. I thought you said that.

10:55:19 15 **A.** And that was the same trailer that we saw in Green Bay
16 a couple months before and --

17 **Q.** And are you identifying -- well, let me ask you. Can
18 you explain this relationship then between the picture
19 PX-60-1, and then this one, 61-2. Is that what you're
10:55:45 20 referring to?

21 **A.** Yeah.

22 **Q.** Can you explain to the jury?

23 **A.** The relationship is that it's the same trailer but not
24 the same pump. As you can see on the other drawing --
10:55:53 25 somebody took off the pump that was leaking, maybe for

Wapenaar - Direct

1 obvious reasons, I don't know.

2 MR. ANASTOS: Objection.

3 THE COURT: Objection sustained.

4 Q. Just explain the relationship.

10:56:08 5 A. Okay. Yeah, but then I have to --

6 Q. Don't say what maybe somebody else said. I think
7 that's the objection.

8 A. They replaced the pump and they installed a Groeneveld
9 pump on the bracket. Of course the bottom picture. It's a
10:56:31 10 Groeneveld pump. As you can see on the ID plate in the
11 middle.

12 Q. Hold on, let me -- this here?

13 A. Yep. And you can also clearly see that those are
14 riveters.

10:56:47 15 Q. And then -- and then -- so the base is the Groeneveld,
16 is that what you're saying?

17 A. For sure.

18 Q. Now, what about the reservoir?

19 A. The only thing I can tell you is that it's a Lubecore
10:57:01 20 sticker, the reservoir can be ours or it can be Lubecore. I
21 don't know.

22 Q. Well, why don't you know?

23 A. Of course, it is not difference. You can see by your
24 eye. They look exactly the same to each other.

10:57:23 25 Q. I may have missed it, but how long a period of time

Wapenaar - Direct

1 between the picture you took in Exhibit 60-1 and then this
2 one that is 61-2?

3 **A.** Probably three or four months.

4 MS. MICHELSON: Give me just one minute,
10:57:52 5 please, sir.

6 **Q.** Sir, Groeneveld sells products other than this EP-0
7 single-line automatic lube system and pump, correct?

8 **A.** That's correct, yes.

9 **Q.** So can you explain to the jury what is so special to
10:58:10 10 Groeneveld about this product that we are here in court
11 over?

12 **A.** Again, I think the terminology went through the room
13 already. It's our flagship. It's what the company became
14 big with. It's our success story. It's basically
10:58:31 15 everything that has to do with Groeneveld. This unit is
16 already -- as it is for the last 20, 25 years. So needless
17 to say it is our image.

18 MS. MICHELSON: I have nothing further of this
19 witness. Thank you.

20 THE COURT: Thank you. Mr. Anastos.

21

22

23

24

25

Wapenaar - Cross

CROSS-EXAMINATION OF KEEPS WAPENAAR

BY MR. ANASTOS:

Q. Good morning, Mr. Wapenaar. How are you today?

A. Great, sir. How are you?

Q. Great. I'd like to explore with you for a second the notion that we just closed on, that the EP-0 pump is the flagship pump for Groeneveld that is the image of Groeneveld. Okay?

A. Correct.

g. All right.

Now, we looked at some sales literature already in this case. And this is one of them. This is Exhibit PX-4-1. After the testimony is that the EP-0 pump shows up everywhere. It's the image of Groeneveld, right?

A. Correct.

Q. Now, this is a brochure that is specifically related to the EP-0 pump, isn't it?

A. Yes, sir.

Q. So if you had a brochure that was related to one of the other pumps that's manufactured by Groeneveld, that

Q. So this exhibit tell us nothing more than that when you create sales literature for the EP-0 pump, you put a picture of the EP-0 pump on it, correct?

Wapenaar - Cross

1 **A.** Correct.

2 **Q.** Okay. Now, there's two pumps on there, correct?

3 **A.** Correct.

4 **Q.** If I was going to show this to the jury and then
11:02:43 5 they're looking right at it, how would anybody in the public
6 know that the EP-0 pump on the left is the flagship of
7 Groeneveld, that the world identifies it as Groeneveld?

8 **A.** Because they probably recognize it.

9 **Q.** How would they not know the one on the right is the
11:03:04 10 one trying to identify with Groeneveld?

11 **A.** I cannot answer that question.

12 **Q.** Here's another one, PX-11-1.

13 **A.** Um-hum.

14 **Q.** I guess the question is the same, if someone looks at
11:03:22 15 that, how does this demonstrate to the world, the public,
16 that Groeneveld wants the public to think of the EP-0 pump
17 as the image of Groeneveld when there's two pumps there, two
18 pictures?

19 **A.** I think I have to give you the same answer as I did
11:03:43 20 before.

21 **Q.** No, your answer -- kind of goes around in circles.

22 Either they recognize it as the Groeneveld pump because
23 they've been conditioned to recognize it as the Groeneveld
24 pump through all this advertising that you say you've done
11:03:56 25 to make the EP-0 the flagship, or you don't do that. And

Wapenaar - Cross

1 this advertisement has both pumps on it?

2 **A.** Yeah, that's very simple because the parts are looked
3 at -- is connected to this is for both -- is for the single
4 line, and for the coupler. So you'll find parts for a
11:04:17 5 single-line system in this document and also parts for the
6 Lincoln -- or the trailer system.

7 **Q.** So it's a lot of interchangeable parts between these
8 two pumps?

9 **A.** No. Why can't you add parts for a coupler to a parts
11:04:36 10 manual?

11 **Q.** Only point is there's two points on that manual,
12 correct?

13 **A.** Correct.

14 **Q.** And you can't tell which one is the Groeneveld
11:04:44 15 flagship pump?

16 **A.** I can say which one is the Groeneveld flagship.

17 **Q.** You can, but what on the cover of that points people
18 to the notion that it's the flagship pump?

19 **A.** Nobody.

20 **Q.** Now, this one is really curious. Your counsel showed
11:05:04 21 you PX-7-3, correct?

22 **A.** Um-hum.

23 **Q.** And you identified that as a picture of a Groeneveld
24 service truck, correct?

25 **A.** Yeah.

Wapenaar - Cross

1 **Q.** And that's got a picture of the EP-0 on one side,
2 doesn't it?

3 **A.** That is correct.

4 **Q.** The flagship pump?

11:05:28 5 **A.** Correct.

6 THE COURT: You're always putting them
7 sideways.

8 **Q.** This is the other side of the truck, correct?

9 **A.** Yes, sir.

11:05:55 10 **Q.** And when your counsel showed this a few minutes ago,
11 we only saw this portion of it, correct?

12 **A.** I didn't pay attention, but if you say so.

13 **Q.** What pump is that on this side of the truck?

14 **A.** That is a twin system.

11:06:08 15 **Q.** So that truck's driving down the road and I pass it on
16 one side and I think the twin system is the flagship, right?

17 **A.** That's up to you.

18 **Q.** Absolutely. And if I pass it on the other side, I
19 might think the EP-0 is the flagship, right?

11:06:24 20 **A.** Um-hum, yep.

21 **Q.** Nothing distinguishes them, doesn't say EP-0 is the
22 super flagship pump of Groeneveld, does it?

23 MS. MICHELSON: I'm going to object to the
24 image and editorial comment.

11:06:37 25 THE COURT: Overruled.

Wapenaar - Cross

1 **Q.** I think we looked at this one earlier. What truck is
2 that?

3 **A.** That is our -- I don't know what kind of purpose it
4 has today, but that's a demo truck.

11:06:50 5 **Q.** Demo truck?

6 **A.** Um-hum.

7 **Q.** Where would that have been used?

8 **A.** It has not been used yet. It has been brought to some
9 expos, but right now, it's sitting in a yard?

11:07:01 10 **Q.** It's been brought to some expos?

11 **A.** Some truck shows, yeah.

12 **Q.** That means truck shows?

13 **A.** Truck shows, yeah.

14 **Q.** Okay. What's pictured on the side of that truck?

11:07:10 15 **A.** All three of our flagships.

16 **Q.** Oh, now there's three flagships. That's interesting.

17 **A.** Um-hum.

18 **Q.** All three?

19 **A.** I think, Mr. Anastos, that if you are a trucking
20 company, then you recognize the pump that you buy. If you
21 are an off-road company, you recognize the pump you buy,
22 which is then the twin system. But, since the zero system
23 is in the market for many, many, many years, we call it our
24 flagship, yeah.

11:07:51 25 **Q.** You call it your flagship, but you're not advertising

Wapenaar - Cross

1 it as you flagship?

2 **A.** No.

3 **Q.** Now, I think you said that you don't recognize this
4 document. Is that correct?

11:08:11 5 **A.** That is correct.

6 **Q.** Let's leaf through it a little bit. All right? This
7 says on the top of the second page, Groeneveld/CPL Systems.
8 What is that again?

9 **A.** That is our company in Canada.

11:08:34 10 **Q.** Correct.

11 It gives the name -- it gives the web page address at
12 the bottom, correct?

13 **A.** Correct.

14 **Q.** And the next page, please? What are all those?

11:08:48 15 **A.** Those are all branches.

16 **Q.** What's this little thing down on the corner here?

17 **A.** That's our logo.

18 **Q.** What's this?

19 **A.** A map of the world.

11:09:05 20 **Q.** What are all the little red dots on it?

21 **A.** I don't know. It says dealers and importers.

22 **Q.** What's the top one?

23 **A.** Groeneveld Distributors.

24 **Q.** Pretty safe to say this is the Groeneveld document?

11:09:23 25 **A.** More than likely.

Wapenaar - Cross

1 MS. MICHELSON: We'll stipulate that it is,
2 your Honor.

3 THE COURT: Thank you.

4 Q. All right. Now we've seen this picture before. It's
11:09:33 5 got how many pumps on it?

6 A. Five.

7 Q. And the far left one is the EP-0 pump?

8 A. Yes, sir.

9 Q. Here we go. This is the page in the brochure that
11:09:55 10 covers the EP-0 pump?

11 A. Um-hum.

12 Q. Can you read the bullet points that describe it?

13 A. "Automatic single-line zero gross greasing system with
14 pneumatic or electric pump. Groenveld supplies single-line
11:10:10 15 automatic greasing system in a special version for trucks,
16 trailers, buses fork lifts and many other applications."

17 Q. Anything in here about this being the flagship pump
18 that the Groenveld's had out there for 30 years?

19 A. No, sir.

20 Q. What pump is that?

21 A. That's the twin system.

22 Q. Can you read what it says about the twin system?

23 A. "Twin automatic greasing will keep your equipment in
24 top condition. Benefits of twin are: Reduces down time and
11:10:43 25 maintenance costs, reduces grease consumption costs, reduces

Wapenaar - Cross

1 safety hazards, reduces environmental impact."

2 Q. Pretty much the same kind of description as the EP-0,
3 just telling whoever is looking at it what the pump does?

4 A. Correct.

11:11:10 5 Q. And which pump is that?

6 A. This is a pump for trailer applications.

7 Q. And it's called the Compalube?

8 A. Yeah.

9 Q. And it's described as the Compalube is ideal for
11:11:27 10 Tandem and Tridem trailer applications, correct?

11 A. That's correct.

12 Q. I'm not going to go through the rest of them, but
13 anything that you've seen in that brochure -- and I'll be
14 happy to bring it up to you -- that in any way distinguishes
11:11:37 15 the EP-0 from all of the other pumps in your -- in the array
16 that's being portrayed there?

17 A. No.

18 Q. Now, we also looked at this, and this is the first
19 item I think we've seen so far in this case that doesn't
11:12:02 20 have the -- when Groeneveld pumps are being shown, it
21 doesn't have the Groeneveld label on them, correct?

22 A. I don't see them here.

23 Q. Now, this is a manual, correct?

24 A. Correct.

11:12:14 25 Q. And it's for technicians?

Wapenaar - Cross

1 **A.** Yes, sir.

2 **Q.** This is for after a sale has been made, correct?

3 **A.** Correct.

4 **Q.** Your counsel showed you a number of pictures of the
11:12:55 5 pumps, correct?

6 **A.** Correct.

7 **Q.** And you said you were able to identify them like that
8 because you're a specialist in the field?

9 **A.** Um-hum.

10 **Q.** Correct?

11 **A.** Yes.

12 **Q.** Of all the pumps we looked at, this is the only one
13 you said you couldn't identify; is that correct?

14 **A.** That is correct.

15 **Q.** Does it have a label on it?

16 **A.** I think somewhere in the corner, yes, looks like a
17 label.

18 **Q.** Does it have a visible label on it?

19 **A.** No.

20 **Q.** This was a main line hose; is that correct?

21 **A.** Correct.

22 **Q.** And it says Lubecore all over it?

23 **A.** As you can see.

24 **Q.** When you looked at the picture and saw the name
11:13:39 25 Lubecore on it, what did you think?

Wapenaar - Cross

1 **A.** What I thought? That our distributor for 25 years
2 used the competitive main line.

3 **Q.** Let's talk about Fuel Systems for just a second. You
4 would agree with me that there was never a written
11:13:57 5 distribution agreement of any kind between Fuel Systems and
6 Groeneveld?

7 **A.** I don't know.

8 **Q.** I just want to show you some testimony from prior
9 proceedings in this case. Now, I really have to zoom in.

11:14:55 10 THE COURT: Well, Melissa, you want to help
11 him again?

12 **Q.** Look at the bottom of Page, 500, please. Last two
13 lines, 24 and 25. Can you read those aloud, please?

14 **A.** "Question: Would you agree with me there was never a
11:15:37 15 written distribution agreement between Groeneveld and Fuel
16 Systems?"

17 **Q.** And the answer?

18 **A.** "That is correct." So I made a mistake.

19 **Q.** Thank you.

11:16:10 20 Now, the relationship between Groeneveld and Fuel
21 Systems terminated approximately when?

22 **A.** I wasn't involved myself, but I thought it was in
23 September, October, 2009.

24 **Q.** And you've since found out that Fuel Systems is still
11:16:27 25 selling some Groeneveld systems?

Wapenaar - Cross

1 **A.** It was after that, yeah.

2 **Q.** And when was that, the Waukegan or something?

3 **A.** Waukesha County.

4 **Q.** Waukesha. That was last April?

11:16:38 5 **A.** I thought it was April or May.

6 **Q.** Of 2011?

7 **A.** 2010.

8 **Q.** 2010.

9 Since April or May 2010, has Groeneveld approached

11:16:48 10 Fuel Systems to purchase Fuel Systems' inventory that you
11 just said you would have purchased if you knew they had it?

12 **A.** It is a little confusing for me. Maybe you can repeat
13 the question.

14 **Q.** Sure. Has -- since you've -- since you learned in
11:17:01 15 April or May 2010 that Fuel Systems still had Groeneveld
16 inventory on hand and was selling it, has Groeneveld made an
17 effort to repurchase that inventory?

18 **A.** Not after that incident.

19 **Q.** You talked about Sheehy mail contractors; is that
11:17:11 20 correct?

21 **A.** That is correct.

22 **Q.** And you said you saw a new -- a new -- you saw a
23 system installed on a new truck in the Sheehy garage, and
24 you were able to identify it as a Lubecore, correct?

11:17:40 25 **A.** After getting close, yeah.

Wapenaar - Cross

1 **Q.** After getting closer. And then you went through with
2 the jury and explained how you were able to identify it
3 because the hose, the main line was different and it had
4 a --

11:17:57 5 **A.** I didn't say that.

6 **Q.** How were you able to identify it?

7 **A.** The way the filler cup is mounted in the unit is
8 different, and I was talking about the bleeder openings on
9 different sides.

11:18:09 10 **Q.** How about the label, did that help?

11 **A.** No, because the label is not -- as you can get it
12 off whenever you want.

13 **Q.** Okay. Here we go. All those other pumps we've looked
14 at, the Graco pump, that had a label on it, correct?

11:18:21 15 **A.** Yeah.

16 **Q.** Graco now owns Grease Jockey, correct?

17 **A.** That is correct.

18 **Q.** When someone sees a Graco label, should they doubt
19 Graco is the owner of that pump and the seller of that pump?

11:18:32 20 **A.** I don't know. You have to ask that somebody.

21 **Q.** When you see the Lincoln pump and it has a Lincoln
22 label on it?

23 **A.** Um-hum.

24 **Q.** Should we trust Lincoln is behind those?

11:18:42 25 **A.** Because I know the connection between the sticker and

Wapenaar - Cross

1 the pump.

2 Q. You have to have a connection between the label and
3 the product in order to trust that the label --

4 A. If I see the Lincoln pump and I see that there's a
11:18:53 5 Lincoln sticker, I know it's a Lincoln. But, I cannot make
6 that correlations between Lubecore and Groeneveld.

7 Q. Sterk owns a couple of companies now?

8 A. You tell me. I don't know.

9 Q. I think you testified -- does Sterk own the Ecostar?

10 A. On a couple. That's just one company.

11 Q. And who is Sterk?

12 A. Sterk is a previous employee of Groeneveld.

13 Q. So you know his company, you know him?

14 A. I know -- I know him. I don't know his company that
11:19:24 15 well.

16 Q. At Millis Trucking, you saw some parts in a warehouse;
17 is that correct?

18 A. That's correct.

19 Q. And you were able to identify them as Lubecore parts?

20 A. Yes, sir.

21 Q. And I think you said it was very easy for you to do
22 that, correct?

23 A. At some parts, yeah, because they are completely
24 different.

25 Q. And some had --

Wapenaar - Cross

1 MS. MICHELSON: Excuse me. Can the witness
2 finish his answer, please?

3 Q. I'm sorry, Mr. Wapenaar. Did some of them have the
4 name on them?

11:19:57 5 MS. MICHELSON: Excuse me. The witness did
6 not finish.

7 THE COURT: Please, please, I don't need a
8 speech.

9 MS. MICHELSON: I object.

11:20:01 10 THE WITNESS: No.

11 Q. Now, Groeneveld typically sells its products only
12 through exclusive distributorships; is that correct?

13 A. That is incorrect.

14 Q. I'm sorry. There are sales that are made that are not
11:20:26 15 done through distributors. Where you have distributors,
16 there are exclusive distributorships?

17 A. For the most parts, yeah.

18 Q. Why is that?

19 A. To give them incentive to work for Groeneveld.

11:20:41 20 Q. So for the most part, there's no chance that someone
21 who is talking with a Groeneveld distributor that they're
22 going to see anybody else's system there, except for
23 Groeneveld's?

24 A. Can you repeat the question?

11:20:53 25 Q. Sure.

Wapenaar - Cross

1 For most distributorships which you said for the most
2 part, they are exclusive?

3 **A.** Yeah.

4 **Q.** Most people who are going to distributorships to talk
11:21:05 5 about purchasing a pump are only going to see the Groeneveld
6 system?

7 **A.** That is correct.

8 **Q.** Not going to see a Lincoln system there?

9 **A.** No.

10 **Q.** They're not going to see a Lubecore system there?

11 **A.** No, unless they break through.

12 **Q.** And it's an imperfect world, isn't it?

13 **A.** Absolutely.

14 **Q.** The sales process that you discussed, how -- you said
11:21:38 15 you start off by generally -- start off by going in and
16 forming a relationship with the person; is that correct?

17 **A.** Yes, sir.

18 **Q.** And then you take your cut-away pump and explain the
19 benefits of an ALS system?

20 **A.** I usually take them in the first meeting already
21 because you never know how fast a meeting is progressing,
22 but quite often, the box just stays closed, and we'll use it
23 in the next meeting.

24 **Q.** Fine. Approximately how many sales calls does it
11:22:11 25 typically take to make a sale?

Wapenaar - Redirect

1 **A.** Four or five.

2 **Q.** And when a fleet is purchasing a couple hundred of
3 them, how many sales calls does it take then?

4 **A.** When it's the first time, maybe six or eight. But, if
11:22:27 5 they are customers it's usually one call.

6 **Q.** The Groeneveld -- can we switch to the projector?

7 Thank you. The Groeneveld G there, it's there, is that
8 Groeneveld's logo?

9 **A.** That is Groeneveld's logo.

10 **Q.** Is that a trademark logo?

11 **A.** I don't know.

12 **Q.** Okay.

13 MR. ANASTOS: I have no further questions.

14 THE COURT: Thank you. Any redirect?

15 MS. MICHELSON: Yes, your Honor.

16 REDIRECT EXAMINATION OF KEEPS WAPENAAR

17 BY MS. MICHELSON:

18 **Q.** Mr. Wapenaar, do you have a travel box for the other
19 product lines and pump lines that Groeneveld carries, other
11:23:53 20 than the EP-0 that we have here in court?

21 **A.** I don't.

22 **Q.** Does Groeneveld advertise and promote its other
23 product lines in addition to its EP-0 system that we're here
24 in court about?

11:24:12 25 **A.** Yeah, but they're different segments.

Wapenaar - Redirect

1 **Q.** And you have brochures for those things as well?

2 **A.** Yes, ma'am.

3 **Q.** Does Groeneveld include pictures of those as well to
4 market them to the segment of the population that those
11:24:24 5 items pertain to?

6 **A.** That is correct.

7 **Q.** Are the -- are the brochures and the things that
8 Defense counsel went through, are those the only things that
9 Groeneveld does to market, advertise, and promote the image
11:24:45 10 of its EP-0 single-line ALS pump and system?

11 **A.** No, it's a lot more. It's activity of our sales guy,
12 it's truck shows that we are participating in. Everything
13 we do has to do with introducing our product to our
14 customers.

11:25:06 15 **Q.** And you are aware Lubecore also sells other automatic
16 lube systems in addition to the one that's the subject of
17 this lawsuit, correct?

18 MR. ANASTOS: Objection, beyond the scope.

19 THE COURT: Overruled.

11:25:19 20 **Q.** Are you aware of that generally?

21 **A.** I know that there are a few other systems, yeah.

22 **Q.** Okay. And some of those are also very similar. Would
23 you agree to the comparable Groeneveld system that is on the
24 market?

11:25:36 25 **A.** Correct.

Wapenaar - Redirect

1 **Q.** But, your Groeneveld isn't suing Lubecore over those,
2 is it?

3 **A.** I don't know.

4 **Q.** That's -- this pump is the only one that's the subject
11:25:51 5 of the lawsuit?

6 **A.** Correct. Of course, this is the transport -- our
7 transport business that we see the most of our problems.

8 **Q.** Most of your products?

9 **A.** Problems.

11:26:08 10 **Q.** I didn't hear or understand.

11 **A.** Most interaction with the competition, say it that
12 way.

13 **Q.** Okay.

14 Is there something special to Groeneveld about the
11:26:22 15 EP-0 single-line pump that we have here more special or
16 different than its other product lines in terms of volume or
17 something along those lines?

18 MR. ANASTOS: Objection.

19 MS. MICHELSON: I can rephrase the question.
11:26:34 20 I'm going to rephrase my question. It was kind of way long.

21 **Q.** What's Groeneveld's biggest product line?

22 **A.** The EP-0.

23 **Q.** The single-line pump that we have here in court? You
24 have to answer out loud.

11:26:52 25 **A.** Yes, ma'am.

Wapenaar - Redirect

1 **Q.** You were asked about efforts Groeneveld made to
2 repurchase or even determine if FSI had additional
3 Groeneveld systems in inventory since your Waukesha County
4 experience. Remember being asked that on cross?

11:27:11 5 **A.** Um-hum. Ask me the question again, please.

6 **Q.** Mr. Anastos asked you about efforts Groeneveld made to
7 determine what other Groeneveld products FSI still has had
8 in stock after the Waukesha County thing. Remember those
9 questions?

11:27:30 10 **A.** Yeah.

11 **Q.** Are you aware that when I went out to visit
12 Mr. Koppelman and take his deposition, I asked him what they
13 had an inventory, and he refused to disclose it to me and
14 Defense counsel objected and did not let him answer that
15 question?

16 MR. ANASTOS: Objection.

17 THE COURT: The objection is sustained.

18 BY MS. MICHELSON:

19 **Q.** Are you aware of what occurred in Wisconsin when I was
20 there to secure Mr. Koppelman's deposition?

21 MR. ANASTOS: Objection.

22 THE COURT: The objection is sustained.

23 **Q.** You were talking about parts that were -- that you
24 found in the Millis Transfers, I think, warehouse or
25 inventory.

Wapenaar - Redirect

1 At some point, you were able to identify them as
2 Lubecore rather than Groeneveld I think you said.

3 How -- you did not get to answer, but how did you do
4 that?

11:28:25 5 MR. ANASTOS: Objection.

6 THE COURT: Objection sustained.

7 **Q.** Why did you initially think they were Groeneveld's?

8 MR. ANASTOS: Objection. He never said that.

9 THE COURT: The objection is sustained.

11:28:35 10 **Q.** What did you do to determine whose parts they were?

11 **A.** I think I can initially answer that question. If you
12 look at those two pumps sitting on the table, Lubecore pump
13 has a black center rod and the Groeneveld pump has a chrome
14 center rod. I don't think you need to have 20/20 vision to
15 see that there are differences.

16 **Q.** You gave some testimony on cross-examination about the
17 Sterk competing pump that you see overseas. Do you recall
18 that?

19 **A.** Yeah.

11:29:38 20 **Q.** Okay. And I believe you said that Mr. Sterk formally
21 had also been affiliated with Groeneveld?

22 **A.** That is correct.

23 **Q.** And after he left Groeneveld, is that when he started
24 competing against Groeneveld?

11:29:55 25 **A.** More than likely, yeah.

1 Q. Well, are you aware of whether he was doing it before
2 he left Groeneveld?

3 | A. No.

4 Q. Okay.

11:30:04 5 And when you look at that pump, do you find it
6 confusingly similar to the Groeneveld look?

7 MR. ANASTOS: Objection.

THE COURT: Objection is sustained.

9 Q. How closely would you have to look at this pump
11:30:27 10 depicted in Exhibit 47 to determine that it was not a
11 Groeneveld?

12 MR. ANASTOS: Objection.

13 THE COURT: Sustained.

14 Q. Can you tell it's not a Groeneveld by looking at it?

11:30:41 15 **A.** Yeah.

16 Q. Are you aware of any legal action against Mr. Sterk in
17 connection with this competing system?

18 MR. ANASTOS: Objection.

19 THE COURT: Sustained.

11:31:39 20 Q. You were asked questions on cross-examination about
21 the various labels on the different pumps. Do you recall
22 that? You were just asked questions about the labels on
23 different pumps?

24 A. Yeah.

11:31:50 25 Q. I'm showing you Exhibit 41. How many labels does that

Wapenaar - Redirect

1 pump have on it?

2 **A.** Two.

3 **Q.** Okay. And can you tell from the label where the pump
4 was manufactured?

11:32:10 5 **A.** What do you mean? What country?

6 **Q.** Or what facility? Can you tell anything about where
7 it was manufactured from the label?

8 **A.** No.

9 **Q.** Can you tell anything about the label from who was the
10 original designer of it, the creator of it?

11 **A.** No.

12 **Q.** Can you tell anything from the labels about what
13 the -- what the relationship is between SKF and a Vogel?

14 **A.** No.

11:32:51 15 **Q.** Exhibit 42, you've identified this as a Grease
16 Jockey -- I don't know, people call it -- let me withdraw
17 the question.

18 You see in print on this product, correct?

19 **A.** Yeah. You mean on the bottom or -- yeah.

11:33:12 20 **Q.** There are -- how many are there?

21 **A.** There is some text in the top as well. What do you
22 mean how many --

23 **Q.** Well, how many different company names do you see on
24 this pump?

11:33:26 25 **A.** Okay. Just one.

Wapenaar - Redirect

1 **Q.** And that's the one right here?

2 **A.** That is correct.

3 **Q.** Do you see something down here?

4 **A.** That's the company name on the brand.

11:33:37 5 **Q.** Do you see two different names on this picture?

6 **A.** No, I was looking at the bottom, not on the top.

7 **Q.** Well, how can you tell by the way this pump is labeled
8 who originally designed it?

9 MR. ANASTOS: Objection.

11:33:58 10 THE COURT: Objection sustained.

11 **Q.** Can you tell who originally designed it by the
12 labeling on this pump?

13 MR. ANASTOS: Objection.

14 THE COURT: Sustained.

11:34:17 15 **Q.** Exhibit 45, you asked questions about and gave
16 testimony about the Lincoln pump?

17 **A.** Um-hum.

18 **Q.** You have to -- I can't hear you.

19 **A.** Yes.

11:34:23 20 **Q.** I believe I said that -- hold on. SKF just bought
21 them?

22 **A.** That is correct.

23 **Q.** Just bought Lincoln?

24 **A.** Yeah, I think about a half year ago.

11:34:38 25 **Q.** Can you tell from the label who actually owns and

Wapenaar - Recross

1 distributes this Lincoln pump today?

2 **A.** No.

3 MS. MICHELSON: I have no further questions.

4 Thank you.

11:34:54 5 THE COURT: Any redirect?

6 MR. ANASTOS: Just one, your Honor.

7 RECROSS-EXAMINATION OF KEEPS WAPENAAR

8 BY MR. ANASTOS:

9 **Q.** The last picture you saw, Mr. Wapenaar, the Lincoln
11:35:00 10 pump, they're now owned by SKF, correct?

11 **A.** Right.

12 **Q.** Do you have the slightest idea if the picture was
13 taken before or after Lincoln was purchased by SKF?

14 **A.** No.

11:35:10 15 MR. ANASTOS: Thank you.

16 THE COURT: Thank you, sir. You're excused.

17 Watch your step going down, please. You may call your next
18 witness.

19 MS. MICHELSON: I will, your Honor.

20 Mr. DeCleene.

21 THE COURT: Sir, would you raise your right
22 hand for me.

23

24

25

DeCleen - Direct

11:36:20 5 DIRECT EXAMINATION OF MICHAEL DECLERK

6 THE COURT: Sir, could you tell us your full
7 name and spell your last name.

8 THE WITNESS: Michael DeCleene, D-E, Capital
9 C-L-E-N-E.

11:36:36 10 Q. Thank you. Hi.

11 | A. Hi.

12 Q. Can you tell the jury a little bit about yourself,
13 please, your background, education, employment history, that
14 sort of thing?

11:36:58 15 A. A company was started in 1969 by my father, and I was,
16 of course, fairly young, but I worked by his side until I
17 graduated from high school in 1976, which I went full-time
18 at that point, took some extracurricular classes at NWTC
19 which is Northeastern Wisconsin, which is technical college,
11:37:21 20 technical training management skills, 1994.

21 We, my brother and I, bought out my dad, our dad, and
22 continued on in the business to where we are today.

23 Q. And where -- where do you live?

24 **A.** Green Bay, Wisconsin.

g. And are you originally from there?

A. Born and raised, yes.

2 Q. You lived there your whole life there?

3 | A. Yes.

4 Q. And about how old are you, sir? You don't have to
5 give us --

11:37:49 5 | give us --

6 A. 53.

7 Q. And did you have a family out there?

8 **A.** I have a son, 23.

9 Q. Now, can you describe for the jury your different job
0 experiences, specifically what you did leading up to the
1 purchase of DeCleene Truck and Refrigeration from your dad?

11:38:08 10

12 **A.** I started at the shop at the ground level and worked
13 my way up through running the shop when I graduated in '76
14 and continued in that position for quite a few years. I
15 would say I went into sales then and been there pretty much
16 that's my background, is sales right now.

11:38:31 15

17 Q. So what was the business? Describe the evolution of
18 the business, DeCleene's business, what it was and how it's
19 changed over the years and then what it is now?

11:38:46 20

21 1980, we decided to quit that business and go on as an
22 independent repair shop.

23 Q. Wait, when you say your trucking company, what kind of
24 trucking company?

11:39:04 25

A. We had our own trucks and we haul petroleum products.

DeCleen - Direct

1 **Q.** What kind of trucks?

2 **A.** Semi tractors and trailers, tankers.

3 **Q.** Oh, okay. So you guys quit that when?

4 **A.** 1980.

11:39:19 5 **Q.** And then what did you do?

6 **A.** We stayed on as an independent repair shop, and 1984,
7 we were awarded the dealership for Carrier Transicold, which
8 is called truck, trailer, refrigeration products, went
9 through that, and you know, through time, stayed on in the
11:39:37 10 truck repair. We expanded in 1999, we went into Madison
11 Wisconsin, and then just this month will be four years we
12 expanded into the Milwaukee area with carrier and our other
13 product lines.

14 **Q.** And did your business expand in terms of the different
11:40:00 15 kinds of things you do?

16 **A.** The different product lines?

17 **Q.** Yes.

18 **A.** Yes.

19 **Q.** Can you tell the jury?

11:40:05 20 **A.** We also handle a few other product lines, trailer
21 products, east manufacturing, trail manufacturing, heavy
22 duty detachment trailers, hoppers, we handle Bosal heaters,
23 climb cabinet conditioning cab APU systems, and, of course,
24 Carrier Compapro APU systems.

11:40:37 25 **Q.** You said APU systems?

DeCleen - Direct

1 **A.** Auxiliary power units. I'm sorry.

2 **Q.** What are those for?

3 **A.** Those are for -- to reduce the idling on the tractors,
4 over-the-road tractors.

11:40:49 5 **Q.** How do they do that?

6 **A.** They provide comfort for the driver, air conditioning,
7 heating and some provide 110 power also.

8 **Q.** You mean if a truck's turned off, it's --

9 **A.** Yeah.

11:41:03 10 **Q.** I see. Okay.

11 So what's your position with DeCleene Truck and
12 Refrigeration these days?

13 **A.** I'm actually the president, and my brother Craig is
14 vice-president. He's operations. I'm pretty much the
15 outside guy, sales and travel between the other locations
16 and with the other sales people.

17 **Q.** And does your product line now include automatic
18 lubrication system?

19 **A.** Yes.

11:41:37 20 **Q.** And currently, who's ALS products are you guys
21 handling?

22 **A.** We've handled Groeneveld automatic lubrication systems
23 for about a year and a half.

24 **Q.** And what is the -- what's the relationship? How do
11:41:52 25 you describe the relationship in terms of --

DeCleen - Direct

1 **A.** We had a dealership for the Wisconsin area.

2 **Q.** And as a part of that relationship, is your company
3 permitted to handle or distribute or promote competing ALS
4 products, products that compete with Groeneveld's ALS
11:42:16 5 business?

6 **A.** No, we're not allowed to sell other brand names.

7 **Q.** Are you permitted to -- let me ask you this. Do you
8 guys do installing, too? You install systems as well?

9 **A.** Absolutely, yes.

11:42:29 10 **Q.** All right. Is that part of the service that the
11 customer gets when they purchase this item? Why don't you
12 explain it to the jury.

13 **A.** Some of our customers are capable of installing their
14 own products, but notoriously we do -- we do the installs.
11:43:05 15 We try to do the installs because we feel as though that a
16 proper install is -- really gives the product a legit --
17 longevity of life.

18 **Q.** And so how long -- well, let me ask you a slightly
19 different question.

11:43:05 20 As part of your arrangement with Groeneveld, are you
21 permitted to use competitors' parts, supplies, components,
22 along with the Groeneveld systems that you distribute and
23 install?

24 **A.** No, we don't use any.

11:43:20 25 **Q.** Would you do that?

DeCleen - Direct

1 **A.** No.

2 **Q.** And why not?

3 **A.** Really don't have any need to do that as we supply the
4 parts and service for the Groeneveld product.

11:43:38 5 **Q.** So when did you become involved with automatic
6 lubrication systems?

7 **A.** I was aware of automatic lubrication systems again
8 from the trucking industry side of it before 1997, but in
9 1997, actually previous to '97, I was talking to the
10 previous dealership of Groeneveld Fuel Systems,
11 Incorporated, and we had a lot of their inventory. And I
12 said as a joke one day that we should be Fuel Systems of
13 Green Bay and that led to a corporation design -- or built
14 in 1997, and that was when we began to market the product
15 Groeneveld through Fuel Systems Green Bay purchase from Fuel
16 Systems, Inc. and that's how we arrived with that product at
17 that point.

18 **Q.** And so during that period of time you're describing
19 now, 1997 until I guess around 2009 or so, who had the
20 exclusive distributorship with Groeneveld in Wisconsin?

21 **A.** It was Fuel Systems, Incorporated.

22 **Q.** All right. And what was your -- what did you do in
23 connection with the Groeneveld products? What was your role
24 at DeCleene Trucks?

11:45:08 25 **A.** Well, we marketed all the products that Fuel Systems

DeCleen - Direct

1 had and the automatic greasing system Groeneveld was one of
2 the large products that we did offer to our customers in
3 that area. Fuel Systems, Incorporated is out of Brookfield,
4 which is Milwaukee area, and you know 110, 20 miles away we
11:45:31 5 were better able to serve our customers and do what we
6 needed to do.

7 Q. Okay. Did there come a -- oh, who was the -- who's
8 the guy at Fuel Systems who was handling the automatic
9 lubrication system part of the business during the time that
11:45:50 10 you were working through them?

11 A. I would say you're probably speaking of Bill
12 Koppelman, Junior, probably had the most responsibility with
13 the automatic greasing systems at that point in time.

14 Q. Are you familiar with a gentleman named Jim Garvins?

11:46:07 15 A. Yes, known Jim for a long time.

16 Q. And can you just tell the jury what his part of the
17 process was?

18 A. He was a salesman for them for a long time, which
19 called us on, which led us to up to the Fuel Systems of
20 Green Bay. At that point, my brother and I had each 20
21 percent ownership. Jim Garvins was given 17 percent
22 ownership and Bill Koppelman, Senior, and his wife, Judy,
23 were given the balance of the shares.

24 Q. And so Jim Garvins did what?

11:46:42 25 A. He was in sales. I'm sorry.

1 Q. Oh, that's okay.

2 **A.** But, he was in sales and that was -- he called on us
3 early on. And again, we purchased a lot of inventory from
4 them in different products, and that's how it would arrive
5 at the Fuel Systems of Green Bay.

11:46:56 5

6 Q. Did there come a time when Fuel Systems of Green
7 Bay -- specifically the -- relationship I guess between
8 DeCleene and Fuel Systems, Inc. you guys parted ways?

A. Yep, we terminated the corporation, and they moved probably 40 miles away, and it's called Valley Diesel now.

11:47:24 10

11 And we remained in business where we are today and continued
12 on.

13

11:47:40 15

16

Q. And who retained the exclusive distributor with Groeneveld after that happened, specifically after you stopped handling -- the Fuel Systems of Green Bay sort of petered out?

17

10

A. Fuel Systems, Incorporated, of course, was still the distributor for Groeneveld and offered it through Valley Diesel, then at that point, after they moved out of our facility.

11:47:55 20

31

20

Q. And just to give the jury a time frame about when -- when are you talking about, what year?

22

24

A. They moved out in 2009, and actually we didn't discontinue the business or the corporation was closed in early 2010.

11:48:12 25

DeCleen - Direct

1 **Q.** Okay. When you were, I guess, helping Fuel Systems,
2 Inc., when you -- let me put it this way. I'm going to
3 withdraw and ask again.

4 Fuel Systems Green Bay, were you involved in marketing
11:48:32 5 sales promotion efforts of the Groeneveld product in your
6 neck of the woods?

7 **A.** Yes, I was.

8 **Q.** Can you just describe for the jury what was done to
9 promote the Groeneveld brand, the Groeneveld product line,
11:48:43 10 the Groeneveld name?

11 **A.** We called on customers door to door. We were involved
12 in many of the truck shows in the area. You know,
13 literature and different things that we put in the shows,
14 and the product that we put out on the -- on display, the
11:49:04 15 lines and injectors, main lines, different things that are
16 attributed to the automatic greasing system.

17 **Q.** And you talked about a display. Can you tell the jury
18 where that display was at your location and also what it
19 consists of?

11:49:21 20 **A.** The display is a cut-away which shows all the
21 operating parts internally, and it's usually displayed at
22 the shows on the -- on the countertop in good visibility of
23 the customer. When we're done with the show, it sits in our
24 entranceway into our parts and service area.

11:49:44 25 **Q.** Mr. DeCleene, I'm going to show you a picture we've

DeCleen - Direct

1 marked as Exhibit 19.

2 MS. MICHELSON: Your Honor, thank you.

3 Q. And I'd ask if you recognize what's depicted in this
4 picture?

11:50:04 5 A. Yes. That's an EP-0 pump, Groeneveld pump.

6 Q. And is that one of the cut-away pumps that you just
7 described as on display in your showroom?

8 A. Yes, it is.

9 Q. And actually, I think if you look in cases boxed down
11:50:15 10 there in front of you, you see one in the courtroom today?

11 A. Exactly like we have.

12 Q. Oh, do you -- do you have other pumps and other
13 cut-away pumps, other than the EP-0 in your display area in
14 your, I guess, lobby?

11:50:42 15 A. We do not.

16 Q. Do you have handle other Groeneveld ALS products in
17 addition to the EP-0 single-line system that we have here in
18 court that this case is about?

19 A. Yes, we do. We carry the Compalube, which is for the
11:50:59 20 trailer systems, and then we can handle the Twin 3, which is
21 for the off-road construction equipment.

22 Q. And what is the purpose of having the cut-away pump,
23 you know, a cut-away pump as opposed to just the whole pump
24 with the housing intact?

11:51:18 25 A. Your customer base would be much, much larger on the

DeCleen - Direct

1 trucking side than it would be on the -- on the off-road
2 side on the Twin 3 pump, and that's why we focus more on the
3 EP-0 pump.

4 **Q.** And when you say you focused more on the EP-0 pump,
11:51:38 5 can you tell the jury how you go about doing that?

6 **A.** Again, we market it door to door with our sales force
7 and explain to them what the system does, and how it can
8 help to reduce your maintenance costs and, you know, grease
9 that particular bearing point at the perfectly right time
11:52:03 10 with the perfect amount of grease.

11 **Q.** Have you taken ads out in newspaper on occasion, trade
12 journals, I guess?

13 **A.** We took an ad out when we first took the dealership on
14 in the Milwaukee Journal. And other than that, we've taken
11:52:21 15 local ads out in different advertisements for shows and
16 things, yes.

17 **Q.** In the written promotional materials that you use in
18 connection with the Groeneveld product, do you incorporate
19 the picture of the pump?

20 **A.** Yes, everything we put out has got the pump.

21 **Q.** Does your service department get involved in promoting
22 the Groeneveld EP-0 product and how?

23 **A.** Our service managers have on point with the customer,
24 anyone that walks through the door and they certainly, you
11:53:02 25 know, promote the product.

DeCleen - Direct

1 **Q.** And when -- when -- what kind of work is done in your
2 service department? What kind of vehicles?

3 **A.** We do a lot of tractor repairs, and of course, trailer
4 refrigeration, truck refrigeration units, trailer repairs,
11:53:27 5 do a lot of different things, and our service managers and
6 our techs are all very familiar with the automatic greasing
7 system and, you know, we sell a lot of them.

8 **Q.** When you make your sells system go the Groeneveld AP
9 system product -- let me ask this way. What percentage of
11:53:59 10 your business would you say, what percentage approximately
11 of your sales of Groeneveld products are related to the EP-0
12 single-line system as opposed to the other system, the
13 additional systems that you mentioned here?

14 **A.** I would not be able to answer that. We're talking big
11:54:23 15 capital equipment versus this system.

16 **Q.** How about in terms of numbers?

17 **A.** I would think that we probably sell a hundred systems
18 a year.

19 **Q.** What I'm --

11:54:44 20 **A.** Versus --

21 **Q.** Go ahead. Sorry?

22 **A.** Versus many of the other product lines. The -- I mean
23 the carrier units, we sell a lot of truck trailer,
24 refrigeration units, sell more of those than we do these,
11:54:58 25 but it all comes into the bottom line of the company.

DeCleen - Direct

1 **Q.** Okay. I don't think I was clear with my question.

2 Relating to the automatic lubrication system product
3 line, how much of that business is EP-0 single-line systems
4 versus the other -- of the other auto lube systems that you
11:55:21 5 handle for Groeneveld, just so the jury has an idea?

6 **A.** I'm sorry. I had --

7 **Q.** Sometimes I don't ask a great question.

8 **A.** I would say it's at least probably 80 percent of the
9 business.

11:55:33 10 **Q.** 80 single-line EP-0 versus 20 of the other?

11 **A.** Correct.

12 **Q.** And as part of your sales presentation to your
13 customers, what do you, I guess, highlight about the
14 Groeneveld product and the Groeneveld brand and its name?

11:55:57 15 **A.** Well, Groeneveld is celebrating 40 years in business,
16 and I think that's really key. And we use that all the
17 time. The reliability, the looks of the pump, the -- you
18 know, it's well known because we've been promoting it for
19 years and years. So that's --

20 **Q.** What -- let me ask this. What -- what considerations
21 are important to the customers and prospective customers to
22 whom you are pitching these products?

23 **A.** Well, the customers are all about return on
24 investment. I mean they hope that -- the money that they've
11:56:45 25 spent for the system is going to be returned on investment

DeCleen - Direct

1 and going to be reliable for the life of the vehicle.

2 Q. Okay. And how do you integrate the Groeneveld brand,
3 the Groeneveld image and the longevity that you talked about
4 into that concept that you just described?

11:57:07 5 MS. ZUJKOWSKI: Objection.

6 THE COURT: Sustained.

7 Q. Well, do you make an effort to do that?

8 MS. ZUJKOWSKI: Objection.

9 THE COURT: Do what?

11:57:15 10 MS. MICHELSON: To -- to tie the Groeneveld --
11 to tie Groeneveld to those concerns of your customers for
12 what they are looking for in the products they buy?

13 THE WITNESS: Well, I think the reputation,
14 the reliability, and experience is what -- is what sells the
11:57:39 15 product.

16 Q. What brands of ALS systems do you see in the Wisconsin
17 area over the period of time that you've been involved with
18 ALS, which I think you said was '97?

19 A. Most of it -- all we've ever seen in our area has been
11:58:10 20 the Grease Jockey and Lincoln and, of course, now Lubecore.

21 Q. When did you start seeing some Lubecores out there?

22 A. It was in the latter part of 2009 that the customer
23 had called and asked me if I was able to get him an
24 automatic greasing system for his Groeneveld, automatic
11:58:37 25 greasing system that he had on order and I had told this

DeCleen - Direct

1 customer that I was unable to do that anymore because we
2 discontinued it or shut down Fuel Systems of Green Bay, that
3 he would have to go to Fuel Systems, Inc. in Brookfield,
4 Wisconsin, and get that there.

11:58:54 5 Q. Who was -- who was that customer?

6 A. That was Jim Piantak Trucking.

7 Q. Okay. Continue.

8 A. And anyway, we evidently called them because he called
9 me back and he asked me if I heard of --

11:59:09 10 MS. ZUJKOWSKI: Objection.

11 THE COURT: Overruled.

12 THE WITNESS: And I said no, I didn't. So I
13 said who's selling that, and he said Fuel Systems,
14 Incorporated. And I said oh, okay, never heard of that.

11:59:25 15 He had took the two systems that he was looking for,
16 and I was invited over to come over and see it, and when I
17 walked up to the vehicle, and I saw it, and it was identical
18 to a Groeneveld and I was totally shocked and surprised.

19 Q. Why?

20 A. Because they were so identical. I mean it was no way
21 that -- there was no way to tell them apart.

22 Q. Well, you saw the label. How come that wasn't the tip
23 off for you?

24 A. I guess I knew it was going to be a -- he told me it
25 was a Lubecore, but I mean to look at it, to glance at it to

DeCleen - Direct

1 say, you know, my God, it's a Groeneveld with a Lubecore
2 sticker on it --

3 Q. Do you -- you mentioned three different kinds of
4 products that you see ALS products that you see in your
12:00:13 5 area, generally, other than the Lubecore, the Groeneveld,
6 the Lincoln, and then the Grease Jockey, I think you said.

7 A. Yes.

8 Q. We marked this pump Exhibit 130-1. Have you seen this
9 guy before?

12:00:52 10 A. Yes.

11 Q. All right.

12 Can you tell the jury where you see that and what it
13 is?

14 A. It's one of our competitors in the industry. It's a
12:01:03 15 Lincoln Electric pump, EP-2 grease. See that one probably
16 even more than the Grease Jockey in today's world.

17 Q. And the Grease Jockey, you're talking about -- let me
18 ask you this. Do you recognize what we have marked as
19 Exhibit 130-2?

12:01:25 20 A. That is the Grease Jockey.

21 Q. Is this the version that you see in your area?

22 A. Yes.

23 Q. Can you visually distinguish between the Groeneveld,
24 the Lincoln, and the Grease Jockey on sight?

12:01:42 25 A. Yes, I could.

DeCleen - Direct

1 **Q.** When -- when you -- I mean when you're looking at
2 pumps, where does your eye go? What are you looking at to
3 tell them apart?

4 **A.** Well, just the basic designs are easily distinguished
12:02:01 5 between different brands and the Grease Jockey, as you can
6 see, was the big rubber mushroom or hat, rubber hat is the
7 reservoir. I mean the Lincoln is definitely a -- you know,
8 looks different than that, and certainly both of them look
9 different than the Groeneveld product.

12:02:32 10 **Q.** Do you see this version of the Grease Jockey in your
11 neck of the woods, Plaintiff's Exhibit 83-1?

12 **A.** No, I have not.

13 **Q.** I'm just going to go through a few pictures of pumps
14 on here and ask you whether you've seen any of these in the
12:03:09 15 field where you live and work.

16 Showing you a picture that we've identified as PX-40,
17 you ever see that guy before?

18 **A.** No, I have not.

19 **Q.** Do you go to trade shows regularly as part of your
12:03:28 20 job?

21 **A.** Yes.

22 **Q.** You ever seen them even displayed at trade shows?

23 **A.** The only one we ran over across right now is Lubecore.
24 We have not really had anybody promoting the other products
12:03:43 25 at our trade shows that we go to, local trade shows we go

DeCleen - Direct

1 to.

2 Q. I'm showing you PX-41. Is that a pump that you see in
3 the Wisconsin area in your territory?

4 A. Personally I have not seen one in my area. I know of
12:04:03 5 them, but I do not see them.

6 Q. How do you know of them?

7 A. I heard of the name.

8 Q. Which name?

9 A. Roll --

10 Q. Have you heard of SKF?

11 A. I heard of that. That's a tool manufacturer. I heard
12 of that company which purchased Vogel.

13 Q. Just confirm for us this picture 42 is a photograph of
14 the Grease Jockey that you -- that you identified as?

15 A. That is the Grease Jockey.

16 Q. 130-2, the one we have here on the table?

17 A. Yes.

18 Q. There are some markings on this Grease Jockey pump at
19 the bottom. It says LubriQuip. Do you know who LubriQuip
12:05:18 20 is or what its relationship is to Grease Jockey or to this
21 pump?

22 A. It was one of the owners, I believe at one time then
23 it went to Grease Jockey, and now it's another name again.

24 I'm sorry. I can't --

12:05:40 25 Q. That's okay.

DeCleen - Direct

1 **A.** Okay.

2 **Q.** Exhibit 43. Do you see this version of a pump in the
3 Wisconsin area?

4 **A.** No, I don't.

12:05:52 5 **Q.** Exhibit 44, ever see him?

6 **A.** That Interlube, no.

7 **Q.** Have you heard the name?

8 **A.** No, I'm --

9 **Q.** I'm just going to confirm for the record that the
10 picture on the overhead that we marked as Exhibit 45, that's
11 a photograph of the Lincoln you identified in your testimony
12 a few moments ago?

13 **A.** That is the Lincoln.

14 **Q.** Anything on that label tells you SKF owns that product
15 line now?

16 **A.** No.

17 **Q.** Exhibit 47-1, have you ever seen that in the field or
18 anywhere?

19 **A.** No, I have not.

20 **Q.** Are you -- when you make sales calls on your ALS
21 customers, do you have to explain to them who Groeneveld is
22 or do they already know?

23 **A.** I think our customers definitely know the name
24 Groeneveld and the product line, and what it -- what the ALS
25 does. We're telling people everyday what the system does

DeCleen - Direct

1 and how it can reduce your maintenance costs by
2 automation -- automated lubrication.

3 **Q.** So I believe you were telling us a short time ago
4 about Mister -- your -- your -- the situation with
12:08:12 5 Mr. Piantak. And was that the first time you had seen a
6 Lubecore?

7 **A.** Yes, it was.

8 **Q.** And when was the first time you had even heard the
9 name Lubecore?

12:08:27 10 **A.** Again, the first time I heard it, it would have been
11 the latter part of 2009.

12 **Q.** And was that from Mr. Piantak?

13 **A.** Yes.

14 **Q.** Okay.

12:08:37 15 And so when you went out to his site and saw the
16 Lubecore -- I believe you said you were shocked or what --
17 what did you think was going on when you saw it?

18 **A.** Well, I really didn't know what was going on. I was
19 shocked to see that it looked that close. Again, it looked
20 to me like they had taken a decal of the Lubecore and put it
21 over the top of a Groeneveld pump, and I've known these
22 pumps for a long time and I mean looking at it, it was
23 identical.

24 **Q.** And what did you think about that?

12:09:22 25 **A.** Well, I was very concerned, and I left and went back

DeCleen - Direct

1 to my office and then from my past relationships with
2 Groeneveld when we were Fuel Systems of Green Bay, I still
3 had the business cards of Kees Wapenaar, and I called him up
4 to ask him if he knew what Lubecore was.

12:09:44 5 **Q.** Why? Why did you call him?

6 **A.** Because I didn't know there was such a thing as
7 Lubecore, and this looked like the Groeneveld product.

8 **Q.** Are you aware of other -- oh, let me ask you, had
9 Mr. Piantak previously purchased or even since purchased
12:10:13 10 Groeneveld ALS systems?

11 **A.** He purchased Groeneveld before, and he has purchased
12 Groeneveld now after.

13 **Q.** How many lube systems did you see at his facility when
14 you went there, I believe you said in December of 2009, that
12:10:29 15 time frame?

16 **A.** I believe he ordered two at that time.

17 **Q.** And the -- how many Groenevelds has he purchased since
18 then?

19 **A.** Probably four, five. He's a small trucking company,
12:10:51 20 but he puts it on every piece of equipment he purchases.

21 **Q.** You say every PC equipment?

22 **A.** What's PC equipment?

23 THE COURT: Piece.

24 MS. MICHELSON: Oh. Piece of equipment.

12:11:02 25 THE WITNESS: Every piece of equipment he

DeCleen - Direct

1 purchases.

2 Q. Oh, okay. Does he still have the Lubecore on his
3 trucks, the two that he bought?

4 A. Yes, he does.

12:11:13 5 Q. How long -- how many different systems does a customer
6 buy in the life of a truck? Are they replacement items; you
7 get one and that's how it works? Can you explain to the
8 jury a little bit about that?

9 A. I would say that when you purchase that automatic
12:11:40 10 greasing system, it's going to be for the life of the truck,
11 whether it be a five-year trade cycle or now with the cost
12 of everything, they've even extended the -- most of them had
13 extended the trade cycles up to seven years.

14 Q. And why is -- why is it a one-shot deal?

12:11:56 15 A. The reliability of the system usually takes past that
16 five year or seven-year period without any, you know, any
17 other costs.

18 Q. And is there costs components to the purchase -- to
19 the purchase of the system that impacts, you know, just
12:12:18 20 going out and buying another one?

21 A. The labor to change the system out would be, you know,
22 would be very expensive. So like I said, the system is
23 designed to last the life of a truck for the most part. I
24 mean we have very few problems with anything on them.

12:12:42 25 Q. About how much does it cost to buy one of these

DeCleen - Direct

1 systems fully installed?

2 **A.** It's 2499 installed.

3 **Q.** In terms of the Groeneveld right now?

4 **A.** The Groeneveld pump installed.

12:13:02 5 **Q.** Do you know the Lubecore costs?

6 **A.** I know it fluctuates, but I know about where they're
7 at, very competitive dollar wise.

8 THE COURT: You have a long way to go on
9 direct?

12:13:32 10 MS. MICHELSON: Twenty minutes at the most.

11 THE COURT: Oh, my goodness. We'll take our
12 luncheon recess at this time then, folks. Meet you
13 downstairs. 1:30, where do we go? He's not answering.

14 A JUROR: L-1.

12:13:49 15 THE COURT: Okay. He refuses to answer. Is
16 that it? He doesn't want to come back, but you have to come
17 back. We have ways of making you come back. Okay. All
18 right.

19 Keep in mind the admonition that I've given you; L-1
20 at 1:30, one of these young ladies will come down and get
21 you. Okay? Have a good lunch.

22 (Thereupon, a luncheon recess was had.)

23

24

25

DeCleen - Direct

1 Friday Session, October 14, 2011, at 1:30 P.M.

2 THE COURT: Good afternoon. You may continue.

3 MS. MICHELSON: Thank you, your Honor.

4 BY MS. MICHELSON:

13:30:08 5 **Q.** Welcome back.

6 Mr. DeCleene, I'm going to put on this overhead
7 documents that we have marked 73-1 through 73-2 and here's
8 73-3. When we left off, you were talking about your
9 interactions with Jim Piantak regarding the Lubecores. So
13:30:39 10 showing you what I've marked as 73-1, 2 and 3, can you
11 identify that, please, and tell the jury where you got it?
12 I'll just show you the document. Do you recall?

13 **A.** Yes, I do.

14 **Q.** Okay. Can you tell the jury what it is and where you
13:31:10 15 obtained this?

16 **A.** That was the literature that was given to Jim Piantak
17 as far as the buyer, not by the Lubecore against the
18 Groeneveld product.

19 **Q.** Where did you obtain the documents?

13:31:31 20 **A.** This came from Jim Piantak Trucking.

21 **Q.** Are you aware of other customers, Groeneveld customers
22 who have purchased Lubecores rather than Groenevelds since
23 Lubecore was introduced to the market?

24 **A.** Yes, I do.

13:31:52 25 **Q.** Can you just identify a few of them for the jury,

DeCleen - Direct

1 please?

2 **A.** Dean Osborne Trucking, Crile Camp, HO Wolding, others.

3 **Q.** Okay. Is Packing Corporation of America one of your
4 customers out in Wisconsin?

13:32:16 5 **A.** I'm sorry?

6 **Q.** PCA, do you know who they are?

7 **A.** Yes, Packing Corporation of America.

8 **Q.** And tell the jury who they are, please.

9 **A.** Very large paper company up in Tomahawk, and they
10 ordered some John Deere rear loaders with Groenevelds and
11 ended up receiving them with Lubecore products on them.

12 **Q.** And are the Lubecore products still on those trucks to
13 your knowledge?

14 **A.** No, they have both been -- since then been replaced by
15 Groeneveld.

16 **Q.** And who did that replacement?

17 **A.** We have done those real estate placements for them.

18 **Q.** We, meaning you, your company, DeCleene Truck and
19 Refrigeration?

20 **A.** Yes.

21 **Q.** And when were those replacements made?

22 **A.** Actually one was done about a year ago, and the last
23 one was done here probably three months ago, I would say.

24 **Q.** And at whose request did you replace those Lubecore
25 ALS pumps with the Groeneveld pumps?

1 **A.** It was Packaging Corporation of America that requested
2 us to come and replace them.

3 Q. Did they tell you why they wanted that?

4 MS. ZUJKOWSKI: Objection.

13:33:44 5 THE COURT: Objection is sustained.

6 BY MS. MICHELSON:

7 Q. I'm going to show you this document that we've marked
8 Exhibit 80. And do you recognize the photograph in here in
9 this picture?

13:34:06 10 **A.** Yes, I do.

11 Q. Okay. Can you just tell the jury what that is?

12 A. That is the Lubecore pump on the John Deere rear
13 loader before it was changed to a Groeneveld pump.

14 Q. And do you know who took this picture that's depicted
15 in the exhibit?

A. One of my sales personnel.

17 Q. And what kind of Lubecore pump system is depicted in
18 this photograph, Exhibit 80?

19 A. It's an EP-0 pump.

13:34:37 20 Q. The one that we have here in court that's the --
21 subject to the litigation here?

22 A. Yes, it is EP-0 pump, which is not really normal on
23 our equipment, but it's what PCA requests.

24 Q. And specifically what system have you installed or
13:35:05 25 what pump have you installed of the Groeneveld to replace

DeCleen - Direct

1 the Lubecore that was there?

2 **A.** It's the -- it is a Groeneveld pump, and it's an EP-0
3 pump, but it's electric, not pneumatic.

4 **Q.** Do you know what PCA did with the two Lubecores that
13:35:26 5 it had?

6 **A.** I'm not sure.

7 **Q.** A company named Crile Camp, do you know who they are?

8 **A.** Yes.

9 **Q.** And can you tell the jury who they are and how they
13:35:37 10 fit in here?

11 **A.** A large trucking company. They put automatic
12 lubrication system on all their tractors. They're --
13 they're probably 350 tractors strong.

14 **Q.** And are they a customer of the ALS products, the
13:36:00 15 Groeneveld ALS products?

16 **A.** Yes, they are.

17 **Q.** And do you know whether they have purchased any of the
18 Lubecores since the Lubecores were introduced to the market?

19 **A.** They have.

20 **Q.** Do you have an idea how many Groenevelds they've
21 purchased in their history and how many Lubecores they've
22 got on their fleet right now?

23 **A.** 300 plus as far as EP-0 Groeneveld, as far as their
24 last purchase. I believe they split the order with Lubecore
13:36:34 25 and Groeneveld.

DeCleen - Direct

1 **Q.** I'm going to show you another photograph we've marked
2 as Exhibit 79. Do you see tomorrow handwriting on this
3 photograph?

4 **A.** Yes, I do.

13:37:02 5 **Q.** And do you recognize that handwriting?

6 **A.** Yes, I do.

7 **Q.** Whose is it?

8 **A.** I think it's mine.

9 **Q.** And can you tell the jury what is -- what this is a
10 photograph of?

11 **A.** It is a photograph of a 120-pound peg of zero grease,
12 and -- the green and white is notorious of the Groeneveld
13 product, and this was a take off of FSI, which stands again
14 for Fuel Systems, Incorporated, and then G-Lube was their
15 name for their grease, Groeneveld grease.

16 **Q.** Can you -- can you tell by the color of the container
17 that it's in, who -- whose grease this actually is?

18 Who's -- is it Groeneveld grease? Whose grease is it?

19 **A.** I'm not sure. I mean the label is over the top of the
20 other labels. I don't know.

21 **Q.** Who took the picture?

22 **A.** Again, one of my sales personnel.

23 **Q.** And where was that picture taken?

24 **A.** This picture was taken at Osborne and Son Trucking.

13:38:24 25 **Q.** Do you know who put this label over the one that

DeCleen - Direct

1 appears below it?

2 **A.** FSI, Fuel System, Incorporated. I would say they did
3 it.

4 **Q.** One moment, please. Did you recently attend a trade
13:39:15 5 show?

6 **A.** Yes.

7 **Q.** And can you tell the jury what the name of it is and
8 what it was a trade show for, where it is, those sorts of
9 things?

10 **A.** Actually we were just at two of them, but the larger
11 one was all the counties in Wisconsin, was at the foreman
12 superintendent meeting in Manitowoc, Wisconsin. All the
13 counties come together to look at different products, see
14 what you have to offer, and many vendors are there. So we
13:39:51 15 were there also. And did you want me to continue on the --
16 this other show also?

17 **Q.** Sure. Well, what was the trade show for? Who was
18 there, who attended?

19 **A.** All 72 counties -- I shouldn't say all, but they're
20 all invited to come to this show. So it's superintendents
21 of all the counties, and this was in Manitowoc, Wisconsin,
22 and vendors come to present their products to the -- to the
23 county people.

24 **Q.** Did you attend and have a display booth for the
13:40:32 25 Groeneveld ALS products?

1 **A.** Yes, we did.

2 Q. And was Fuel Systems in attendance there as well?

A. Yes, they were.

4 Q. And what products were -- was Fuel Systems
5 representing at the time?

13:40:44

6 **A.** I was told it was -- I was there, but I never got past
7 the booth. But, I was told, of course, it was Lubecore.

8 Q. Did you bring this -- I guess it's an exhibit,
9 directory -- with you regarding that conference?

13:41:02 10

11 for attending.

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13·41·33 15

13 And I'm not marking the whole exhibit, but I've marked
14 relevant pages, Exhibit 136. And can you please identify
15 what we've marked here and what I'm showing you as Exhibit
16 136?

17 **A.** That was the front page on the vendor directory, and
18 it was again at the Holiday Inn Manitowoc, Wisconsin.

13:41:55 20

19 Q. And the directory is obviously multiple pages,
20 correct?

21

22 Q. And inside, is there advertising material for Lubecore
23 that you recall seeing?

13:42:07 25

24 A. There is advertising in there for Lubecore and many
25 other vendor products, but that's -- Lubecore is in there,

DeCleen - Direct

1 yes.

2 Q. And the second page of this document, which will be
3 Exhibit 136-2, can you tell the jury -- well, can you
4 confirm that's the page from the directory that relates to
13:42:24 5 Lubecore?

6 A. Yes, that was their advertisement in that directory.

7 Q. And can you confirm, please, whether -- looking at the
8 original, the whole exhibit book, whether it be
9 advertisement, whether the Fuel Systems Lubecore
13:42:47 10 advertisement is in color or in black and white?

11 A. It's in black and white.

12 Q. I'm just going to -- one second.

13 MS. MICHELSON: Sorry, your Honor. I
14 apologize. Looking for one piece of something.

13:44:17 15 THE COURT: Okay.

16 Q. Sir, in your job and given your experience and your
17 background and your occupation, would you put Groeneveld
18 component pump parts in a Lubecore pump or vice versa?

19 A. No, I would not.

13:44:51 20 Q. And can you explain to the jury why?

21 A. I'm not sure if they would be compatible. So I
22 wouldn't want to make the unit unreliable.

23 MS. MICHELSON: I don't have any further
24 questions of this witness. Thank you, your Honor.

13:45:09 25 THE COURT: Thank you.

DeCleen - Cross

1 MS. MICHELSON: At this time.

2 THE COURT: Ms. Zujkowski.

3 CROSS-EXAMINATION OF MICHAEL DECLEEN

4 BY MS. ZUJOWSKI:

13:45:25 5 Q. Nice to see you again, Mr. DeCleene.

6 A. You also.

7 Q. Thank you. How is business out in Wisconsin?

8 A. Overall, been quite well.

9 Q. I noticed on your web site that you're hiring some new
13:45:42 10 technicians; is that right?

11 A. Correct.

12 Q. Looks like you even actually added a few office
13 locations since you last talked.

14 A. No.

13:45:55 15 Q. Is it new office space opening up, is that -- did I
16 just review that wrong?

17 A. I guess I haven't looked at my web site in a while,
18 you know. We're looking at another place, but that's not on
19 the web site so I -- and it's another location, but we
20 opened up in a new location in Milwaukee but still there in
Milwaukee.

22 Q. Fair enough. I was just?

23 A. South 20th Street whatever, but, okay.

24 Q. You think the economy has been improving or are there
13:46:26 25 other reasons why you would attribute business picking up a

DeCleen - Cross

1 bit?

2 **A.** I think -- I don't know that the economy is really
3 coming back strong by any means. I think we stayed
4 relatively busy through a tough time, but you know, is it as
13:46:45 5 good as it could be, no.

6 **Q.** Fair enough. You testified that DeCleene Trucking
7 entered into an agreement giving it the right to be
8 Groeneveld's exclusive distributor in Wisconsin last March;
9 is that right?

13:47:01 10 **A.** Yes.

11 **Q.** And if you know, that was just a little bit before
12 this lawsuit was filed in April of 2010?

13 **A.** Yes.

14 **Q.** Is there a time prior to that when you were concerned
13:47:12 15 about Groeneveld's future plans to continue to distribute
16 and service its products in Wisconsin?

17 **A.** No.

18 **Q.** Do you recall ever expressing something along those
19 lines to Dean Osborne at Osborne Trucking?

20 **A.** I do not. I would have no reason to suggest that
21 Groeneveld was changing the way they did business, and I --
22 you know, I would have no way of even knowing that.

23 **Q.** Fair enough.

24 In any case, the term of your fair exclusive
13:47:47 25 distributorship with Groeneveld was one year; is that right?

1 | A. Yes.

2 Q. Have you since renewed that -- that year would have
3 expired, I guess, March of this year?

4 **A.** It has not been renewed yet, and I was -- I've asked
5 about that, and it is being redone.

6 Q. So if it expired in March of 2011, are you currently
7 not bound by any exclusive distributorship agreement with
8 Groeneveld?

A. A new one for this particular year since March, no, I
don't have one. And I guess I'm not sure if there is a
continuation on the first one I signed, to tell you the
truth, but I've not signed a new one for 2011.

13 Q. But, it's your intention to --

14 **A.** Absolutely.

13:48:36 15 Q. You testified that prior to become a Groeneveld
16 distributor, you were obtaining Groeneveld products from
17 Fuel Systems, Inc.; is that correct?

A. Two Fuel Systems of Green Bay.

19 Q. Yeah, that was the partnership you were involved with
13:48:50 20 in the Koppelmans and Mr. Garvins, correct?

21 A. Correct.

22 Q. One of the products Fuel Systems was supplying at that
23 time was automatic lubrication system?

24 **A.** Yes, it was.

13:49:03 25 Q. You started selling them, I think you said, around

DeCleen - Cross

1 1997?

2 **A.** Yes, through Fuel Systems of Green Bay.

3 **Q.** Prior to that, you weren't purchasing ALS systems for
4 any other source, right?

13:49:17 5 **A.** Correct.

6 **Q.** But, you were aware they existed, these products
7 existed, you just didn't start selling them, you just
8 distribute them?

9 **A.** Yes. We weren't the dealership for them, but, you
10 know, took the line on when we had Fuel Systems of Green Bay
11 and sold the products and we were the installing company for
12 Fuel Systems of Green Bay.

13 **Q.** Ms. Michelson has sprinkled the word "exclusive"
14 pretty liberally in her questions to you, but you don't know
15 actually know whether or not Fuel Systems had an exclusive
16 distributor agreement with Green Bay the way you had up
17 until March of this year; is that right?

18 **A.** I did not know if they had an exclusive dealership
19 with them. I know they were with them for 25 years, but I
20 don't know if they actually signed that agreement or not.

21 **Q.** Thank you.

22 All you knew was Fuel Systems was a distributor of
23 Groeneveld's products?

24 **A.** Yes, and --

13:50:12 25 **Q.** And they were a distributor of many products?

DeCleen - Cross

1 **A.** Yes.

2 **Q.** And your relationship with Fuel Systems, I think you
3 said the terms Fuel Systems of Green Bay, I don't mean to be
4 unclear about that, terminated in 2009; is that correct?

13:50:25 5 **A.** Yes, it is.

6 **Q.** That termination was by mutual agreement amongst
7 partners?

8 **A.** Yes.

9 **Q.** It had absolutely nothing to do with Lubecore or this
10 lawsuit?

11 **A.** I had no idea what Lubecore was at that time.

12 **Q.** You testified that you primarily market Groeneveld's
13 ALS products through door-to-door sales; is that right?

14 **A.** That's correct.

13:50:50 15 **Q.** Your sales department also markets the products to
16 customers who actually happen to come into your service
17 department into your repair shop?

18 **A.** Yes.

19 **Q.** If I can remember seeing one out in your lobby?

13:51:02 20 **A.** Yep.

21 **Q.** During your deposition, I think you testified that the
22 percentage of customers that come into your department for
23 repair needs who even heard of these kinds of system is very
24 low, though, right?

13:51:14 25 **A.** Percentage wide, yes. There's a lot of large fleets

DeCleen - Cross

1 that don't see the advantage to them, maybe trade the
2 tractors and, you know, sooner than they don't hang on to
3 them for the full five or seven-year trade cycle. So yes,
4 the percentage for the ALS versus the total population of
13:51:40 5 tractors is low.

6 **Q.** I think I heard 5 or 10 percent thrown around. Does
7 that number sound right to you?

8 **A.** I think that probably would be close to correct, yes.

9 **Q.** So it's -- again, to be clear, we're talking about the
13:51:52 10 whole market for commercial truck market in the U.S.?

11 **A.** Yes.

12 **Q.** And has that really changed in the last year and a
13 half since we last talked? Has that remained more or less
14 about the market share that uses these products 5 or 10
13:52:09 15 percent?

16 **A.** I would say yes.

17 **Q.** Okay. I know you only distribute Groeneveld products.
18 Do you service other systems if someone comes into the
19 repair shop with the Lincoln Lubecore Grease Jockey?

13:52:27 20 **A.** We have not repaired any to my knowledge.

21 **Q.** Would you have any restrictions -- is there any reason
22 you think you wouldn't be able to do that if someone came
23 into the shop?

24 **A.** No, I would think that we would repair them if we
13:52:41 25 could. I mean if it's a line broke, wire broke, I mean I

DeCleen - Cross

1 certainly would think that we're capable of those type of
2 repairs.

3 **Q.** Do you have Groeneveld lines then in stock that you
4 might be able to use to repair somebody else's broken line
13:52:55 5 if that --

6 **A.** I would have mine in stock. I mean not specifically
7 for Lubecore or any other system, but I mean we -- we have
8 all kinds of different size lines for different applications
9 of not -- even greasing systems, airlines and whatever.

13:53:12 10 **Q.** Do you buy those lines from Groeneveld or is it
11 from --

12 **A.** I buy -- I'm sorry. I have specific lines for the
13 Groeneveld systems. Yes, from Groeneveld.

14 **Q.** Okay. And you've got other -- do you have other types
13:53:24 15 of lines that you -- I know you distributed some other
16 products, too.

17 **A.** The line -- I mean the lines I may repair another main
18 line of the greasing system with could or would not be a
19 Groeneveld line.

13:53:37 20 **Q.** Just be whatever made sense under the circumstances?

21 **A.** I mean Parker makes lines, Imperial, many other
22 manufactures of lines that I could repair or fix of a
23 damaged line, and that does happen. I mean something flies
24 off the road and hits a line and breaks it. It happens.

13:53:56 25 **Q.** Okay. Thank you.

DeCleen - Cross

1 Your customers are not particularly concerned with the
2 physical appearance of their ALS systems, are they?

3 **A.** I don't think there's particular concern about the
4 looks of them. I think they're concerned about the
13:54:11 5 reliability and the reputation and the return on the
6 investment.

7 **Q.** Knowing what you know about the industry you're in and
8 the customers that you deal with, don't you think it would
9 be a bit misleading for someone to suggest ALS customers
13:54:25 10 care if their pump is prettier or looks nice?

11 **A.** Again, I -- I don't think they particularly care about
12 that. I have some customers that want them mounted inside
13 the frame because they don't want to see them on the outside
14 of the frame. I mean everybody has their outlook on things,
13:54:42 15 but --

16 **Q.** They care about the benefits they get from the system?

17 **A.** Benefits is where it's at.

18 **Q.** They want it to work, right?

19 **A.** Yep.

13:54:52 20 **Q.** They want to make their life easier?

21 **A.** Reliable, reduce their maintenance costs and --

22 **Q.** Those are their concerns, they don't care if it's
23 pretty?

24 **A.** Correct.

13:55:02 25 **Q.** Thank you.

DeCleen - Cross

1 At some point after the termination of your business
2 relationship with Fuel Systems in 2009, and this is -- you
3 talked about this extensively with Ms. Michelson -- a
4 customer called Jim Piantak Trucking approached you and
13:55:16 5 asked you about buying an ALS, right?

6 **A.** Yes.

7 **Q.** And it's fair to say you told the customer he can no
8 longer get an ALS system from you, he needed to go directly
9 to Fuel Systems?

13:55:25 10 **A.** Yes, I did.

11 **Q.** You testified, I believe, that Jim Piantak went ahead
12 and contacted Fuel Systems about it getting an ALS system?

13 **A.** Obviously he contacted then, yes.

14 **Q.** And later he called you back because he trusted you?
13:55:40 15 He was your customer, probably your friend, and he wanted to
16 know if you knew anything about Lubecore, right?

17 **A.** That is correct.

18 **Q.** Is it -- and I think you said it's fair to say prior
19 to that time, you had never heard of Lubecore?

13:55:54 20 **A.** That's also correct, yes. I never had heard about it
21 before. I was -- I was surprised to hear that, and I asked
22 who was distributing that, and he said Fuel Systems.

23 **Q.** All right. You understood that Jim Piantak was asking
24 about Lubecore because he wanted your opinion about a
13:56:10 25 product he hasn't heard about either, correct?

A. Correct.

2 Q. So you came out to look at it with Mr. Piantak?

3 **A.** After he committed to the systems, I went and looked
4 at it, yes.

13:56:21 5 Q. And he didn't -- he committed to the systems after
6 knowing he was buying a Lubecore system, right?

7 MS. MICHELSON: I'm going to object.

8 THE COURT: Overruled.

9 THE WITNESS: He did purchase a Lubecore after
13:56:33 10 he knew it was a Lubecore. And at that time, I did not know
11 that it was a complete take off of the Groeneveld pump.

12 Q. Mr. Piantak himself was no way confused or expressed
13 any confusion to you about the source of the product he was
14 buying?

13:56:50 15 MS. MICHELSON: Objection, two different
16 questions.

17 THE COURT: Overruled.

18 Q. That's correct, right? You testified during your
19 deposition and at the preliminary injunction hearing that he
20 knew he was getting a Lubecore?

21 A. He did know he was getting a Lubecore.

22 Q. Thank you.

23 You had no reason to think that anyone tried to make
24 him think he was getting any product other than a Lubecore?

A. I believe there was some trust there with Fuel

DeCleen - Cross

1 Systems. I mean he was aware of the company for a long
2 time. He purchased all of his previous Groenevelds from
3 Fuel Systems. They offered him a Lubecore. They -- they
4 trusted -- sorry, Jim trusted them on that. And yes, he
13:57:30 5 committed and he knew he was purchasing a Lubecore.

6 Q. Jim trusted Bill Koppelman and Fuel Systems because
7 those are people he had a long time relationship with?

8 A. Jim Garvins, I'm sure it was.

9 Q. Jim Garvins. Okay. Just to be clear.

13:57:42 10 And he was trusting that -- when you say trusting, he
11 was trusting that they were representing to him truthful
12 information; they weren't trying to deceive him into trying
13 to buy a pump other than the one they told him he was
14 buying?

13:57:56 15 A. Yes.

16 Q. When you went to check out the product, you said --
17 you could see the Lubecore label on it at that time, right?

18 A. Yes, I could.

19 Q. You weren't confused at all? In fact, you even knew
13:58:08 20 before you went out to the facility that what you were going
21 to see was going to be a Lubecore product?

22 A. Yes.

23 Q. Thanks.

24 To this day, can you testify -- can you identify any
13:58:21 25 customer of yours who's bought a Lubecore product and

DeCleen - Cross

1 thought they were buying a Groeneveld product?

2 **A.** I can't answer that. I can't say that, you know, the
3 Lubecore is identical, as far as misleading the customer,
4 saying this looks like it's the next generation, it's
13:58:42 5 only -- it's better than the Groeneveld. That's the
6 difference.

7 **Q.** Isn't it better something that a salesperson would say
8 to try to differentiate their products not to try to confuse
9 the customer about the source of the product? That just
13:59:00 10 makes sense, right?

11 **A.** Yes, it makes sense.

12 **Q.** You talked a little bit about trade shows. You said
13 you've seen Lubecore marketing its products at trade shows
14 since you first learned about this new market in 2009,
13:59:17 15 correct?

16 **A.** We've done trade shows with all our other products for
17 years and years just added the Groeneveld product to the
18 line to when we do shows?

19 **Q.** I apologize. Maybe I wasn't clear on that question.
13:59:34 20 Have you seen Lubecore's product at the trade shows
21 that you go to?

22 **A.** Oh. Yes.

23 **Q.** All right. Have you ever visited Lubecore's booth?

24 **A.** I've walked past it.

13:59:44 25 **Q.** Does it have a banner on it that says Lubecore?

DeCleen - Cross

A. Yes, it's advertised Lubecore.

2 Q. There's marketing materials presumably for Lubecore?

A. Literature, yes. They have displays.

4 Q. They're not trying to make someone think it's somebody
5 else's booth, are they?

6 MS. MICHELSON: I'm going to object.

7 THE COURT: Overruled.

8 THE WITNESS: No.

9 Q. In fact, Groeneveld's got its own booth at these same
0 trade shows, probably not too far away?

11 A. We are in a booth or outdoors at the same shows, yes.

12 Q. Exhibit PX-136, which we looked at a bit ago, can I
13 switch back? Sorry if it's not fully fitting on here, but
14 this is an example actually of Lubecore materials that were
15 submitted apparently in connection with a recent trade show
16 that you attended?

17 **A.** Yes, it is.

18 Q. You testified here that the Lubecore pages in black,
19 right, the front page is in black and white too, right?

14:00:58 20 A. Yes, it is.

21 8. Was this whole book printed in black and white?

22 A. I don't remember.

23 Q. Have you ever seen any Lubecores, other marketing
24 materials? They're usually in red, right?

14:01:17 25 A. Yes.

DeCleen - Cross

1 Q. You've seen the red Lubecore marketing materials?

2 **A.** Yes, I have.

3 Q. Even on this black and white copy of apparently some
4 sort of exhibit book that was handed out at a trade show,
5 you can see Lubecore's logo right on the product, correct?

A. I could see the logo.

7 Q. On the name plate here as well?

8 **A.** Yes.

9 Q. Why do you think Lubecore would print its name all

over its sales literature if it was trying to confuse

11 customers? Was there any reason? Doesn't it seem more

12 likely Lubecore is trying to differentiate itself from other
13 competitors?

14 **A.** I don't think --

14:02:03 15 MS. MICHELSON: Compound questions, your

16 Honor.

17 THE COURT: It was a couple questions there.

18 MS. ZUJKOWSKI: I'll take them one at a time.

19 Q. Why would Lubecore print its name all over its pump
14:02:12 20 and its products if it was trying to confuse customers?

21 **A.** I don't know that the name is confusing. The product
22 design is the confusing part.

23 Q. I'm asking. It's not the type of thing someone would
24 do if they were trying to confuse a customer, is it?

14:02:29 25 A. No.

DeCleen - Cross

1 **Q.** And you -- you're a sales guy, you deal with
2 customers, it's not the kind of thing that makes sense to
3 you that someone would do who's trying to cause source
4 confusion?

14:02:39 5 **A.** It's -- the decal was -- is there for a reason, for a
6 name. It's not the problem; the design of the pump and what
7 it looks like. It looks like our Groeneveld pump.

8 **Q.** It's really the exact opposite. If someone prints
9 their name all over the sales material and all over the
14:03:02 10 product, they're doing it to differentiate that product from
11 other products, even products that might look exactly like
12 their product or very similar to their product? You've seen
13 green bean cans lined up at a grocery store before, right?
14 They all look alike, don't they?

14:03:17 15 MS. MICHELSON: I'm going to object to
16 arguments.

17 THE COURT: Overruled, overruled.

18 **Q.** They all look alike, don't they? How do you know
19 Delmonte green beans from the Green Giant green beans?

14:03:31 20 **A.** Yes, I purchase by what I know for quality.

21 **Q.** Doesn't -- you don't -- when you're trying to find the
22 one you want, though, if you know Green Giant is better
23 quality -- and believe me, I have no idea which. They seem
24 somewhat fungible, but in any case, if Green Giant's the
14:03:47 25 better quality green bean and you're going to the store with

DeCleen - Cross

1 that in mind, how do you pick it from the Delmonte green
2 bean? How do you know which can is which?

3 **A.** By the name.

4 **Q.** That's printed on the label, right?

14:03:57 5 **A.** Yes.

6 **Q.** You've been shown pictures of several competing pumps,
7 and I'm not going to make everyone look at them again. You
8 recognized a lot of them, though, right, fair to say, but
9 not all of them?

14:04:11 10 **A.** Correct.

11 **Q.** And, of course, you're familiar with this pump because
12 you represent the Groeneveld product line, and you're in
13 this sort of small segment of the trucking market that deals
14 with these products on a regular basis, right?

14:04:24 15 **A.** Right.

16 **Q.** 1990, before you -- in the time frame when you maybe
17 just sort of heard of this, would you have been able to look
18 at pictures of a Lincoln pump and a Grease Jockey pump, an
19 Eco-Star pump and made comments intelligently whether you
20 recognize the design of those pumps?

21 **A.** Prior to 1997, no, I would not have.

22 **Q.** Just makes sense that as an active player in the
23 market, you're going to be able to recognize these things,
24 right?

14:04:53 25 **A.** It's my business, yes.

DeCleen - Cross

1 **Q.** I know you testified today that your past customers,
2 when you deal with them, they recognize Groeneveld's
3 products when you make a sales call?

4 **A.** Yes.

14:05:06 5 **Q.** Of course, they do. They have one, right? They've
6 seen it before?

7 **A.** We call on customers every single day, new customers,
8 existing customers, but, yes, my customers -- I have
9 customers that don't have one in their fleet that know
14:05:22 10 exactly what a Groeneveld pump looks like.

11 **Q.** Let's talk about that segment of folks then. You got
12 brand new customers who never -- you said first don't have a
13 Groeneveld product in their fleet but have heard of
14 Groeneveld. That's some segment of people, and I'm sure
14:05:36 15 they exist.

16 Are their brand new customers who have heard of ALS
17 that have never seen any specific ALS pump before that you
18 deal with?

19 **A.** I can't answer that.

14:05:49 20 **Q.** Anybody you're introducing the concept to for the very
21 first time?

22 **A.** Well, I think we probably do, but I'm talking about
23 customers that don't have any in their fleet. And the
24 reason I can't answer that, they could have a truck at a
14:06:03 25 different facility that maybe had one on that I don't see in

DeCleen - Cross

1 a different state, Pennsylvania or California. So I don't
2 know that, but I have customers that do not have automatic
3 greasing system sold by me in my area.

4 **Q.** But still have them from somebody else?

14:06:20 5 **A.** Still no -- and still know what a Groeneveld product
6 looks like because I give them the literature. They stop by
7 my truck show displays, so.

8 **Q.** And again, we're talking about a small group of people
9 that are using these things or have heard of them to start
14:06:34 10 with.

11 Now, I want to talk about a different set of people,
12 the people that are brand new to this product.

13 Do you ever meet with those kinds of people to try to
14 sell the concept on them to try to make a first sale, not a
14:06:46 15 repeat sale?

16 **A.** Yes.

17 **Q.** Okay.

18 And do those people -- do they have this same ability
19 to recognize the looks of all these different pumps?

14:07:01 20 **A.** No, I don't think so.

21 **Q.** And what about the rest of us, the general public, the
22 99 percent, so to speak? Do you really think that members
23 of the general public recognize the Groeneveld pump, the
24 look of it, and have an association in their mind with the
14:07:19 25 product source the way they do when they see a Coke bottle?

DeCleen - Cross

1 MS. MICHELSON: Objection, relevance.

2 THE COURT: Overruled.

3 Q. Does that even make sense?

4 A. I don't know that the general public would have any
14:07:31 5 reason to know what an ALS system is. I mean most people
6 that drive a car don't know how to grease their own car.

7 Q. Right.

8 You can't even say that about the trucking industry as
9 a whole, members of the trucking industry as a whole, let
14:07:46 10 alone the general public, right?

11 A. They would not be the same.

12 Q. Even though you don't have an engineering background,
13 you're reasonably familiar with the ALS pump, having worked
14 in this industry 30-plus years selling the system for 14
14:08:06 15 years, right?

16 A. Yes.

17 Q. And hopefully, I'm not going to ask you to do it
18 today, but if we went through the various component parts of
19 Groeneveld's ALS pump sitting right over here -- and I'll
20 put it up there if you'd like it to be closer -- could you
21 generally tell me what each part of that pump does?

22 A. I think I could do a fairly good job at distinguishing
23 what the components and parts are, yes.

24 Q. Just pick out an easy example. What does the
14:08:36 25 reservoir do?

DeCleen - Cross

1 **A.** The reservoir is what holds the supply of grease while
2 the truck is away from the shop or on the road.

3 **Q.** What about the bolt pattern on the back of the truck,
4 the hose?

14:08:48 5 **A.** The mounting bolt pattern mount onto the frame or to
6 the mounting bracket on the truck frame.

7 **Q.** What about that black cap on top? What's its
8 function?

9 **A.** It's to keep out contaminant and water, moisture in
14:09:06 10 the grease.

11 **Q.** Thank you very much. I'm not going to make everyone
12 suffer through every last component part of that pump? But,
13 again, you agree all those component parts are there for a
14 reason?

14:09:16 15 **A.** Yes.

16 **Q.** And if you had to, at least in theory, you could take
17 that pump apart and figure out how to make another one?

18 **A.** Could take it apart and put it back together.

19 **Q.** That's good enough. I'm going to pull out here PX-A.
14:09:36 20 Switch back to --

21 MS. ZUJKOWSKI: Your Honor, do you mind
22 switching back to the --

23 THE COURT: I thought you said you weren't
24 going to show all these.

14:09:48 25 MS. ZUJKOWSKI: I apologize. Not all of them.

DeCleen - Cross

1 Just look at two more exhibits that Ms. Michelson used at
2 the end there.

3 THE COURT: The jury's going to be dreaming
4 about grease pumps.

14:10:00 5 (Laughter.)

6 MS. ZUJOWSKI: I've been dreaming about them
7 for a year and a half.

8 THE COURT: I know you have.

9 Q. You testified that this was an EP-0 Lubecore pump
10 earlier. Are you sure that this is not an electric EP-2
11 pump upon taking a closer look?

12 A. I did say it was an electric EP-2 pump before and not
13 likely that goes on a piece of off-road equipment normally
14 but at PCA's request.

14:10:28 15 Q. So this one's on a John Deere tractor. This is an
16 electric pump, but again, you believe it's EP-0. Are you
17 sure it's not an EP-2 grease pump?

18 A. It's an EP-0 as far as I know.

19 Q. Fair enough. Would it make sense to use EP-2 grease
20 in a John Deere tractor application instead -- would that be
21 the kind of grease you would use?

22 A. As I said earlier, it is -- it is kind of strange that
23 they would use an EP-0 on an off-road piece of equipment,
24 but that is their request.

14:11:03 25 Q. And every customer is unique, you know. We've been

DeCleen - Cross

1 talking in broad strokes about which pumps are used for
2 which applications here, but at the end of the day, a lot of
3 these pumps can be applied to lots of different
4 circumstances really? I mean they're greasing pumps.

14:11:18 5 **A.** There's --

6 **Q.** Kind of a --

7 **A.** Use your imagination. I mean anything that has
8 anywhere points you could put imagination.

9 **Q.** First little product. And just one more picture,

14:11:35 10 PX-79. You testified that FSI, you believe FSI relabeled
11 this can of grease. It's got the FSI sticker on it,
12 correct? It's kind of hard to see, but that's what it says
13 up in this left corner, right?

14 **A.** Yes, it does.

14:11:49 15 **Q.** Okay.

16 FSI is an independent distributor of ALS products and
17 numerous sort of trucking industry products, right?

18 **A.** Yes, they are.

19 **Q.** They're not owned by Lubecore?

14:12:02 20 **A.** As far as I know, no.

21 **Q.** They're not owned by Groeneveld, never were?

22 **A.** No.

23 **Q.** They're an independent actor?

24 **A.** Yes, independent distributor.

14:12:11 25 **Q.** In the -- sort of back right-hand picture corner of

DeCleen - Cross

1 this picture here, can you see that other barrel of grease,
2 the one with the red on it?

3 **A.** Yep.

4 MS. MICHELSON: Where?

14:12:26 5 MS. ZUJKOWSKI: The other barrel of grease in
6 the upper right corner here.

7 MS. MICHELSON: I see.

8 **Q.** Do you recognize that barrel of grease?

9 **A.** I can't distinguish that.

14:12:36 10 **Q.** Fair enough. I know the picture's blurry and it's
11 small.

12 MS. ZUJKOWSKI: Thank you very much for your
13 time, and I hope you get to enjoy our fair city this go
14 around.

14:12:45 15 THE WITNESS: Thank you.

16 THE COURT: Any redirect?

17 MS. MICHELSON: Yes, sir.

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DeCleen - Redirect

REDIRECT EXAMINATION OF MICHAEL DECLEEN

MS. MICHELSON: Approach the witness and --

BY MS. MICHELSON:

Q. Mr. DeCleene, I just handed you the, I guess, vendor book that you received at the recent trade show that you brought with you from Wisconsin. Do you have that in front of you?

A. I do.

Q. And that is the book from which we took the excerpt, the cover page and then the insert page with the Lubecore brochure; is that correct?

A. Yes, it is.

Q. Okay. And can you, please, tell the jury whether the cover page is in color or black and white?

A. My mistake. It is in color.

Q. Thank you.

Sitting here today, you're not sure whether your written agreement with Groeneveld is an evergreen contract, meaning it automatically renews or not, is that fair to say?

A. I'm not sure, yes.

Q. And do you recall whether the contract -- the written contract does require exclusivity to Groeneveld ALS products?

A. Yes, it does.

Q. If the written agreement has indeed expired or

DeCleen - Redirect

1 terminated because it hasn't been renewed in writing, do you
2 continue to feel bound to the exclusivity arrangements that
3 you have with your supplier?

4 **A.** Yes, I do. I feel we're very loyal to Groeneveld.

14:14:55 5 **Q.** During the time period when you were working with FSI
6 on the Groeneveld products, meaning when FSI had the
7 distributorship, did you know FSI to distribute or carry any
8 AIS systems other than the Groeneveld? And just so my
9 question's clear, up until the time it started carrying the
14:15:26 10 Lubecore.

11 **A.** Again, I've never heard of Lubecore while we had that
12 product lineup to 2009.

13 **Q.** Okay. So leaving aside the Lubecore, during the
14 years, and years that you and FSI were handling Groeneveld
14:15:42 15 products together, did you know FSI to be handling any other
16 competitive -- sorry about that -- competing ALS product
17 lines other than the Groeneveld?

18 **A.** No, they did not to my knowledge.

19 **Q.** You didn't install any for them, did you?

14:16:00 20 **A.** No.

21 **Q.** There was some questioning on cross-examination about
22 Dean Osborne. Can you please tell the jury who Mr. Osborne
23 is and how you know him?

24 **A.** Dean's been a long-time customer of DeCleene Repair
14:16:25 25 and Refrigeration for his fleet. We've been a carrier

DeCleen - Redirect

1 dealer for 26 years, I believe, and it's been a very good
2 customer of ours.

3 Q. And do you know him to be a customer or purchaser of
4 automatic lubrication system?

14:16:43 5 A. Yes, he was -- he was always Groeneveld on his
6 trailers and tractors.

7 Q. And did you learn that he had at some point purchased
8 some Lubecore systems?

9 A. Yes, he did.

14:16:58 10 Q. Can you tell the jury whether you talked to him --
11 whether you remember having any conversation with him about
12 Lubecore before you learned that he had actually already
13 bought them?

14 A. Yes. It's going to kind of fall in the same time
14:17:17 15 frame at Jim Piantak because John called me first and then
16 he called me, Dean Osborne called me. I told him also the
17 same thing; he would have to go to Fuel Systems, Inc. When
18 I found out about Jim Piantak purchasing Lubecore, I called
19 Dean up and I said, "Dean did you -- did you purchase
20 Lubecore?" And he said yes. And I said, "have you
21 committed?" And he said yes. So those systems went to Jim
22 Piantak and also to Dean Osborne at that time frame.

23 Q. And do you remember whether during that conversation
24 there was a question as to who was going to get the
14:17:55 25 Groeneveld distributorship in Wisconsin? I don't know if

DeCleen - Redirect

1 you recall that or not, just asking you.

2 MS. ZUJKOWSKI: Objection.

3 THE WITNESS: That was very close also on that
4 time frame that did -- at the point, I wasn't the
14:18:12 5 distributor, the assigned distributor, so I didn't tell him
6 I could get him Groeneveld, but I did say that, you know
7 what, we're trying to get the distributorship in and we'll
8 be here to take care of you. So that's the way it was left.

9 Q. And does Mr. Osborn still have the Lubecores on some
14:18:29 10 trucks in his fleet, to your knowledge?

11 A. To my knowledge, they are still on the two trucks and
12 Ford trailers.

13 Q. And have there been any -- has he ordered any new ALS
14 products since that purchase?

14:18:45 15 A. He has, and they've been Groeneveld. And he's got
16 more equipment coming now that it will be Groeneveld.

17 Q. Now, there was some questioning about this on
18 cross-examination, and I just want to clarify a little here.
19 There was questions about repairs that you would make to
20 nonGroeneveld ALS lines. Do you recall this questioning?

21 A. I do.

22 Q. And can you just explain the difference between
23 repairing a line and repairing inner -- you know -- the pump
24 components of a pump using somebody else's parts?

14:19:27 25 A. Yes. The main lines, the secondary lines, there's

DeCleen - Redirect

1 many line manufacturers that you can repair a line with.
2 Electrical wires can be repaired. As far as carrying parts
3 to fix a Lubecore or parts that carry it to fix a Grease
4 Jockey or Lincoln, no, we don't carry those parts to fix
14:19:52 5 them, but external parts like the wiring and lines, we could
6 do.

7 Q. And so when I was asking you the questions about using
8 Groeneveld component parts to repair a Lubecore pump and
9 vice versa, are those the kinds of things you were talking
14:20:09 10 about not secondary lines or something --

11 A. Right.

12 Q. I just want to clarify this for the jury.

13 A. When I answered your question before, I was -- the
14 understanding of the internal working part, not external
14:20:26 15 parts. So I would not repair a Lubecore with Groeneveld
16 parts.

17 Q. And are you specifically referencing the internal
18 parts of the pumps that make them actually pump the grease
19 through the system?

14:20:43 20 A. Yes.

21 Q. Okay. So on cross-examination I believe you said that
22 Mr. Piantak told you before you visited him that first time
23 when you saw the Lubecore system, that that's the system you
24 would be seeing at his facility; is that right?

14:21:12 25 A. I was told that he had purchased the Lubecore system.

DeCleen - Redirect

1 So yes, I knew that's what he had.

2 Q. And at that point in time, had you heard of Lubecore?

3 A. No, I did not.

4 Q. Had you seen a Lubecore?

14:21:24 5 A. No.

6 Q. And so you arrive at Mr. Piantak's facility and what
7 did you see?

8 A. I saw the Lubecore, which at first glance, I thought
9 it was a Groeneveld and relabeled. It was identical. I was
14:21:44 10 shocked. I mean I didn't know it, didn't know what to say.

11 Q. Did you know what to think about it?

12 MS. ZUJKOWSKI: Your Honor, this is --

13 THE COURT: Yeah, this is all new.

14 MS. MICHELSON: All right. I'll move on.

14:21:58 15 I'll move on.

16 Q. There was questions about the labels and my question
17 to you is how do you recognize the different pumps that are
18 in your market?

19 A. They all look much different than ours, than the
14:22:16 20 Groeneveld pump.

21 Q. Do you rely on the label to make that assessment?

22 A. No.

23 Q. What jumps out at you so that you identify the
24 different systems as coming from different sources or places
14:22:27 25 or people?

DeCleen - Redirect

1 **A.** I guess the easiest one, I think even for the jury
2 to -- you look at the Grease Jockey, and I mean it's a dead
3 give away with the red rubber hat or mushroom style
4 reservoir. It's a very simple, easy, distinguished
14:22:48 5 difference.

6 **Q.** The Grease Jockey hat is red rubber?

7 **A.** It's a rubber top hat, rubber, yes.

8 **Q.** So I mean we have a used one here on the table, and it
9 looks pretty dark, but is that because it's grease all over
14:23:02 10 it?

11 **A.** They're usually brand new. I believe they're off
12 color red or orange.

13 **Q.** Thank you.

14 You were asked questions about how customers in the
14:23:34 15 field recognize the different pumps. How do they recognize
16 the different pumps? What are you hearing when you're in
17 the field and working with these people and talking to them
18 everyday?

19 MS. ZUJKOWSKI: I object. That was --

14:23:48 20 THE COURT: Objection sustained.

21 BY MS. MICHELSON:

22 **Q.** There were questions that -- about the -- that each,
23 you know, each part of the pump isolated on its own performs
24 a function, correct?

14:24:08 25 **A.** Correct.

DeCleen - Redirect

1 **Q.** Does the Grease Jockey reservoir perform the function
2 of holding grease the way the Groeneveld reservoir does?

3 **A.** Yes, it does.

4 **Q.** Perform the same function?

14:24:21 5 **A.** Yep.

6 **Q.** Does the Lincoln reservoir perform the function of
7 holding the grease as well?

8 **A.** Yes.

9 **Q.** Does the Grease Jockey base, as does the Groeneveld,
10 hold the inner mechanics of the pump that make it operate
11 and pump grease through the system?

12 **A.** Grease Jockey is the diaphragm and the lower end is
13 what pumps the grease to their --

14 **Q.** The same question about the -- I'm so sorry. Were you
15 finished?

16 **A.** To the -- to the grease points or bearing points is
17 what the diaphragm on the bottom, yes, does.

18 **Q.** And now what about the Lincoln base? Same question.
19 Does it perform the same function of holding the guts of the
20 pump as does the Groeneveld and the Lubecore base?

21 **A.** Yes. It's the --

22 **Q.** You were asked some questions about cans of green
23 beans in the store. Do you remember being asked those
24 questions?

14:25:30 25 **A.** Yes.

DeCleen - Redirect

1 **Q.** And when you go to a store and you see the cans of
2 green beans lined up, you see the label, correct?

3 **A.** Yes.

4 **Q.** And what is inside the can is not visible, is it?

14:25:45 5 **A.** No, not at all.

6 **Q.** Do you know what's actually inside there by looking at
7 the label on the green bean can?

8 **A.** Yes.

9 **Q.** What do you think is in there?

14:25:57 10 **A.** Green beans.

11 **Q.** How do you -- can you tell that by looking at it?

12 **A.** No, they could have the wrong label on it.

13 **Q.** Do you know the quality of the contents of the can of
14 green beans by looking at the label?

14:26:17 15 **A.** No, other than the known name.

16 **Q.** And what if you don't know the brand name that is on
17 the label? How do you -- do you know anything about the
18 quality of the item contained inside the sealed can that has
19 a label on it?

14:26:40 20 **A.** No.

21 MS. MICHELSON: I don't have any further
22 questions.

23 THE COURT: Melissa, anything further?

24 MS. ZUJKOWSKI: No, your Honor. Thank you.

14:26:49 25 THE COURT: Thank you, Mr. DeCleene. You're

DeCleen - Redirect

1 excused. Watch your step.

2 THE WITNESS: Thank you.

3 THE COURT: You may call your next witness.

4 MS. MICHELSON: Your Honor, we are going to
14:26:56 5 play for the jury deposition excerpts from Mr. Koppelman.

6 We have that ready to go. I don't know about lights,
7 camera, action. So you guys.

8 MR. KUNSELMAN: Can you switch to Computer
9 Number 2, please?

14:27:20 10 THE COURT: I sure can.

11 MR. ANASTOS: Your Honor, we -- I know there
12 are a number of pending unresolved issues, and one of the
13 issues is the -- this is Bill Koppelman's testimony who I
14 believe they're about to present.

14:28:13 15 MS. MICHELSON: Is it something we should be
16 doing at side bar or in front of the jury?

17 THE COURT: I guess I make that decision,
18 don't I?

19 MS. ZUJOWSKI: In any case, there are -- we
20 had --

21 THE COURT: I know. You they can play their
22 experts, and if you want to play the rest of it, you can do
23 it.

24 MS. ZUJKOWSKI: As --

14:28:30 25 THE COURT: Cross-examination, right?

Koppelman Depo

1 MS. ZUJKOWSKI: Thank you, your Honor.

2 MS. MICHELSON: I apologize.

3 THE COURT: It happens, folks, for whatever
4 reason. They -- people are here live. Because of the
14:28:42 5 technology we have and for any other reasons, we have the
6 testimony prerecorded and the person offering the testimony
7 can offer certain parts of the transcript if they want and
8 the other party can offer the rest of it. And so sometimes
9 it's broken up and it may be more difficult to understand,
14:28:58 10 but you take it in the same way the best you can the way
11 it's presented. And just because it's presented in this
12 way, there's no reason you shouldn't give it any more or
13 less weight than if somebody was actually here.

14 (Deposition of William Koppelman played before the
14:30:00 15 jury.)

16 MS. MICHELSON: Your Honor, that's the
17 conclusion of our --

18 THE COURT: Okay.

19 MS. MICHELSON: -- excerpts.

20 THE COURT: Melissa, you want to play the
21 rest?

22 MR. ANASTOS: Your Honor, we do -- I don't
23 know if the Court has it, but we have our IT guy in route
24 over. This is the first we knew this was going to be the
14:47:52 25 time this witness was used. So he should be here within --

Koppelman Depo

1 THE COURT: There he is.

2 MR. ANASTOS: He's walking right in. Perfect
3 timing.

4 THE COURT: Come on in, young man, and just
14:48:02 5 simply -- we would do the entire deposition. So was
6 there -- set him up real quick. Yes?

7 MS. MICHELSON: Your Honor, just for the
8 record, I'll just explain because the witness did reference
9 time period a year ago, to let the jury know that the
14:48:22 10 deposition was conducted on September 24, 2010, so that they
11 have the correct time frame. And --

12 MS. ZUJKOWSKI: We're willing to consent to
13 that as long as we're able to play this next then while it's
14 still in context for the jury.

14:50:01 15 THE COURT: Sounds good.

16 MS. MICHELSON: I appreciate that. Thank you.

17 MS. ZUJKOWSKI: And then we'll have our IT.

18 THE COURT: Okay. We're ready.

19 MS. MICHELSON: Orville White.

20 THE COURT: Would you raise your right hand
21 for me.

22

23

24

25

White - Direct

1 ORVILLE WHITE,
2 of lawful age, a witness called by the PLAINTIFF,
3 being first duly sworn, was examined
4 and testified as follows:

14:52:20 5 DIRECT EXAMINATION OF ORVILLE WHITE

6 THE COURT: If you would.

7 MS. MICHELSON: Proceed? Thank you, your
8 Honor.

9 BY MS. MICHELSON:

14:52:22 10 Q. Good afternoon, Mr. White. Can you please introduce
11 yourself to the jury? They know your name. So why don't
12 you tell them a little bit about yourself?

13 THE COURT: They really don't know his name.
14 But, tell us your full name and spell your last name.

14:52:34 15 THE WITNESS: My full name is Orville Ancona
16 White, last name spelled W-H-I-T-E.

17 THE COURT: Okay. Help me out here.

18 THE WITNESS: A-N-C-O-N-A. It's actually a
19 little city in Italy, on the east coast of Italy.

14:52:55 20 THE COURT: That's what you're named for?

21 THE WITNESS: It was a lady named --

22 THE COURT: Longer story, huh?

23 THE WITNESS: A longer story.

24 THE COURT: I'm with you. Sounds interesting,
14:53:04 25 at least for your father.

White - Direct

1 BY MS. MICHELSON:

2 **Q.** Mr. White, where are you from? Where do you live now?

3 **A.** I live in Middletown, Delaware, just south of
4 Wilmington, Delaware.

14:53:30 5 **Q.** Where are you originally from?

6 **A.** From Poca City, Oklahoma.

7 **Q.** And is that where you grew up?

8 **A.** Yes, ma'am.

9 **Q.** And how did you find yourself in Delaware?

14:53:40 10 **A.** Working for Conoco, which was a merger with Dupont in
11 1981, and through job motion movements between Conoco and
12 Dupont, found myself in Delaware.

13 **Q.** And how long have you been in Delaware?

14 **A.** Sixteen years.

14:53:55 15 **Q.** Do you have a family out there with him?

16 **A.** Yes, my wife and two daughters.

17 **Q.** Can you tell the jury, please, your -- a little bit
18 about your background, your schooling, and education?

19 **A.** As a lot of folks in Oklahoma, maybe a little
20 different than perhaps I think, you know, Ohio certainly
21 part of the -- close enough that you can probably relate to
22 me. Grew up in a farming community, father was
23 self-employed and six of us boys and one girl, and he taught
24 us all how to work and follow him around on the farm and
25 plus construction and that type of thing, and even make a

White - Direct

1 little bit of mechanic work.

2 He bought a service station, a small truck stop in
3 1967, 1968, and all us boys worked in the truck stop doing
4 everything from fixing tires to washing and greasing trucks
14:54:49 5 and fixing flat tires and doing that type of stuff.

6 Finished through high school, and then about seven or eight
7 years -- in fact, right out of high school, got married at
8 age 18. So I've been married almost 42 years now.

9 **Q.** Congratulations.

10 **A.** So that -- then went to -- went to college and got a
11 finance degree in Oklahoma State and continued to work with
12 Conoco and Dupont. Our company that I worked for today is
13 Sentinel Transportation which is a subsidiary that was
14 rolled up out of one of the operating divisions within
14:55:27 15 Conoco. And we hauled products for Conoco and for Dupont,
16 basically in-house carrier, approximately 450 trucks, all
17 kinds of chemicals, crude oil, gasoline, oil field stuff, as
18 well as high pressure triggers and a lot of specialized
19 equipment with Dupont.

20 **Q.** And so what kind of trucks? Describe the fleet.

21 **A.** All of our trucks are Class 8, which are the big
22 trucks going down the highway, 18 wheelers. Basically a
23 brand that we use is a Kenmore tractor, day cab, T800 and
24 T60 or T600 sleeper, used to haul the different products.

14:56:10 25 So again, we have tanks and van trailers, but most of

White - Direct

1 our fleet is tanks and pumps and that type of thing.

2 Q. And what are -- what's your current job title there at
3 Sentinel?

4 A. It's changed quite a bit. I've been buying the
14:56:25 5 equipment since 1992 and was basically called equipment
6 manager, and have since taken on the -- not only the
7 equipment manager and maintenance, but the safety and
8 environmental and compliance as well. So I have -- I have
9 all of that group, five direct reports to me.

10 Q. And you mentioned something about purchasing
11 equipment. And can you explain to the jury what kind of
12 equipment you're referring to?

13 A. Well, not only just the truck itself or the powering
14 unit and/or the trailers, but also the accessory equipment
14:56:59 15 that goes on. For example, if you have a truck that's
16 hauling crude oil, you need a pump, you need a power take
17 off, something to run the pump that comes off the
18 transmission. You need the overfill systems to stop a
19 driver from overfilling the tank. You need to -- an
auxiliary power unit, an APU, to keep the driver cool and
20 warm while he's sleeping overnight because EPA won't let you
21 idle the truck. So you have to spend \$10,000 to put an APU
22 on the truck. Those kinds of things are what we buy, plus
23 the lube systems, anything to kind of help reduce
24 maintenance. The more you can keep the truck out of the
14:57:33 25

White - Direct

1 shop, the better you are. It costs about \$4 a mile to run a
2 truck today, and if you can keep it on the road and out of
3 shop, that's the key thing.

4 **Q.** And the lubrication system you mentioned, are those
14:57:48 5 the automatic lubrication systems for the greasing points
6 that we've actually been hearing about in this trial?

7 **A.** Yes, it is.

8 **Q.** And can you -- can you tell the jury when you first --
9 your first exposure to automatic lubrication systems using
14:58:06 10 the transporting industry?

11 **A.** Okay. I -- as I had mentioned earlier, when I was in
12 Oklahoma and I was working in the garage for Conoco when I
13 first started there, I did most of the washing and greasing
14 of the trucks and some oil changes and just the kind of
14:58:23 15 thing you put off on that kind of work. One of the things
16 they had looked at was a lube system and actually used a
17 Grease Jockey system, kind of a -- certainly very archaic
18 looking system today, but it certainly looked like it was --
19 it would work. The problem was it wasn't a single line type
20 unit. So if any of you -- in the systems themselves, just
21 the way the grease dispenses and didn't work well just
22 didn't work well, compaction and everything else. So that
23 little test kind of didn't last very long at all. Again, I
24 was probably in my 20's when we did that one, and I'm --

14:59:04 25 **Q.** Was that down south, is that --

White - Direct

1 **A.** That was when I was in Oklahoma, yes. That would have
2 been in, you know, the late 70's, early 80's.

3 **Q.** Can you describe what that Grease Jockey pump looked
4 like for the jury?

14:59:18 5 **A.** It wasn't much. It was really just a body base, had
6 an air line to it and had a rubber cap that went over the
7 top of it, and you would fill it with grease and the rubber
8 cap would expand. You used to -- Santa Fe and some of the
9 other rail companies that had some of the inner delivery
14:59:38 10 stuff, they would put it on their old trucks because they
11 would a lot of time run those trucks for 35 years, wear them
12 out. If any of you seen older men in trucks and those kind
13 of things, city delivery, you can see that they're well
14 worn.

14:59:52 15 **Q.** And I'm going to show you what we've marked as
16 Exhibit -- Plaintiff's Exhibit 130-2 and ask if this is the
17 kind of Grease Jockey -- over here in my hand, the kind of
18 Grease Jockey that you're referring to that you saw years
19 ago?

15:00:11 20 **A.** Yeah. I didn't know they still made them.

21 **Q.** It was hard to find it, but is this it?

22 **A.** Yeah. Yes, it is.

23 **Q.** And can you confirm for us, please, that what we've
24 marked as Plaintiff's Exhibit 42 is the item that we have,
15:00:33 25 an exemplar here of 130-2?

White - Direct

1 **A.** That's correct. It has a Grease Jockey made by
2 AirQuip.

3 **Q.** Now you said something about your earlier experiences
4 with the Grease Jockey. Can you just elaborate a little
15:00:50 5 more for the jury the problems you were having with that
6 system?

7 **A.** It used a Number 2 grease, which for a -- when you
8 speak about grease, a Number 3 is a very thick grease, a
9 Number 2 is a little thinner, and Number 1 is even thinner,
15:01:06 10 and you get into the OTT's and the zeros, and really the
11 difference of that is how much detergent they add to it
12 because all grease is motor oil with detergent added to it,
13 and it makes it thick.

14 And so the Number 2 grease would compact, especially
15 in the summer, and the sun would get on it and/or the
16 winter, you wouldn't get it to push through the tubing and
17 stuff. So you had -- you thought you were getting grease to
18 lube points, but you weren't. So it had a lot of component
19 failures where you thought you were getting grease. You
20 would let go -- you would normally grease manually. You let
21 those go because you thought they were getting grease and
22 they're not. So you ended up with more problems than you
23 originally had.

24 **Q.** And have you looked into perhaps -- have you
15:01:52 25 considered using the Grease Jockey system since then, since

White - Direct

1 you were last exposed to it, I think you said in the 80's or
2 something?

3 **A.** No, we didn't. We -- we'd seen them, but with the --
4 with the amount of support and service that we got or didn't
15:02:08 5 get along with the poor performance of them, we just -- we
6 never even really gave them a second look. It's like once
7 you bought -- had trouble with something, you typically
8 don't go back.

9 **Q.** Hokey-doke. So can you describe for the jury, please,
15:02:24 10 the geographical location of your fleet, where they go, the
11 distance, where they -- where they are, how that's --

12 **A.** Sure if -- our truck fleet is a very diverse fleet.
13 Most fleets either haul one type of a trailer or a couple of
14 types of trailers. For example, like a Kroger or an HEB,
15:02:48 15 maybe a Giant's food store or Piggly Wiggly, they would have
16 a van or a refrigerated trailer and haul food products in
17 that, and that's all they do.

18 And you might have someone else who hauls gasoline and
19 that's all they do is haul gasoline. And others who may
15:03:03 20 haul certain chemicals and that's all they haul is a certain
21 chemical and maybe a 307, 407 tank. These are just types of
22 trailers.

23 And in our fleet, we have all those. The only trailer
24 we don't have is a trailer you haul live animals in. So if
15:03:17 25 you see a flat bed trailer, trailer just a flat surface on

White - Direct

1 it with a roll of steel something on it, we would have that
2 trailer, low boy, low like you see somebody with a crane or
3 a dozer on it, or we would have stainless steel insulated
4 trailers that he may haul molasses and syrup, things like
15:03:37 5 that you put on the table and eat.

6 So every type of trailer in the world now. And
7 because we're set up that way because since we are owned by
8 Dupont and we're owned by Conoco Phillips, we satellite our
9 operations at the specific locations, where they need this
15:03:51 10 equipment, certain equipment. An example would be in
11 Charleston, West Virginia, we have the very specialized
12 trailers, and that's all Dupont stuff, poisons and methyl
13 ethyl beds, all that type of material that would be hauling
14 in those trailers. If I took you out to west Texas in
15:04:08 15 Oklahoma and New Mexico, an aluminum crude oil trailer we
16 haul crude oil in. So you look at the different types of
17 trailers, and it's based on what they need. So that's what
18 causes the diversity of the fleet.

19 Now, where we're located, we run all 48 states in the
15:04:24 20 U.S., lower 48, and Canada. We don't run Mexico. And out
21 of that, we have 42 terminals. And out of those 42, we have
22 an additional five or six that are satellited. In other
23 words, one terminal is a main terminal, and it may be
24 responsible for five or six trucks outside of that, in 23
15:04:44 25 states. So actually in 23 states but run all 48 in Canada.

White - Direct

1 **Q.** So are there -- are there safety concerns or safety
2 benefits that come along with an automatic lubrication
3 system in light of what you just testified to? I have a
4 question about that.

15:05:03 5 **A.** Yeah, yes, absolutely. And that's really one of the
6 main reasons that got us to look at the lube systems was
7 because some of these areas where we're located at -- for
8 example, if any of you have -- can think back about the news
9 in recent history of the Bakken crude up in the North Dakota
15:05:22 10 and Marcellus Shale over in Pennsylvania. There's other
11 fields down in Texas that are really booming in the crude
12 oil business. And if you just simply look at those
13 locations, you can't get mechanics, you can't get people out
14 there to work on trucks. So unless -- as I mentioned
15:05:38 15 earlier, the more you can keep a truck out of the shop, the
16 better off you are.

17 So we've added those lube systems to be able to try to
18 increase those maintenance intervals; and at the same time,
19 reduce the amount of maintenance we have. So the tie rod
20 ends, the parts that come down and actually steer the truck
21 when you turn your steering wheel you have them on your car
22 as well. That actually steer -- you want to make sure those
23 are lubed. We actually had them fall off trucks because
24 they didn't get enough grease over a period of time, wear
15:06:07 25 completely out and fall out of the socket. So, you know,

White - Direct

1 taking care of that, so if you talk about lubrication how
2 important is it, it keeps those steering components and
3 things from wearing out.

4 Q. Did you have an automatic lubrication system at the
15:06:20 5 time when you had this problem you just described?

6 A. No, we did not.

7 Q. Just wanted to clarify that.

8 Did there come a time where you decided that you would
9 try a different automatic lubrication system other than the
15:06:39 10 Grease Jockey that you didn't have great experience with?

11 A. Yes, in -- probably the late 90's, early 2000, we
12 started looking again to try to find the lube system that
13 would help us out, one that would live.

14 You think about the names that you're familiar with,
15 you may think about Boardman's milk, you may think about
16 Land O' Lakes butter, something like that, kind of the same
17 way when you buy a lube system, like what comes to mind. We
18 looked at some Alemite, I mean anybody been around a truck
19 or a garage or anything, grease guns and things that you
20 would find laying around. Alemite, you can find them today
21 in Home Depot and Lowe's and Wal-Mart.

22 So you have those type of things. So just kind of
23 came to mind. But, we -- there's three. I think it was
24 Alemite was one. We tried -- the one we tried before we
15:07:34 25 finished with Groeneveld and ended up with Groeneveld was

White - Direct

1 the Lincoln system, which was pretty well known in the
2 lubrication business.

3 **Q.** What was your experience with the Alemite system, the
4 Alemite product?

15:07:51 5 **A.** All of these systems that we used at that time when we
6 were looking at Number 2 and Number 1 grease. And again, it
7 was a compaction. We ended up with the grease, literally
8 the soap and detergents would literally harden and get solid
9 inside the tubing and you couldn't get grease which was
15:08:10 10 typically the problem. Another piece is the way those are
11 manifolded and the way they bring them together in order to
12 lubricate a point. If you need more grease at a point with
13 those systems, before the single-line systems, they would
14 just simply run more hoses to it. So if you need -- if you
15 had another area that was difficult to grease and it would
16 normally take one hose, you add a second hose to it and try
17 to get more grease to it was kind of the idea.

18 Then these other systems came along, the ALS
19 single-line systems, which you know certainly improved that,
20 but it was the different types of greases that really made
21 them perform better.

22 **Q.** The Alemite pump, can you describe what that looked
23 like? I looked for a picture. I couldn't find one, so --
24 online or anywhere. Can you describe for the jury what that
15:08:55 25 looked like?

White - Direct

1 **A.** Very similar, very similar to the Lincoln down there
2 as far as size, but it was square basically, just almost
3 perfectly square. You see some today, the -- that are out
4 there that are oblong shape and/or rectangular shape, but
15:09:10 5 that one was almost a square one, and if I recall, it had
6 a -- had an aluminum cap on it. That housing was aluminum,
7 not plastic.

8 **Q.** Okay.

9 So did you consider using Groeneveld at that point in
15:09:30 10 time when you were considering the Alemites in the 90's?

11 **A.** No, we hadn't run on to the Groeneveld name yet.

12 **Q.** How long did your -- how long did it go on, your use
13 of this Alemite pump?

14 **A.** We -- I would say a year to a year and a half before
15:09:49 15 we finally, you know, gave up on them.

16 **Q.** And between their Grease Jockey experience and your
17 Alemite experience, can you just give us an idea of this
18 time between them?

19 **A.** Oh, yes. Probably eight years, seven years, something
15:10:06 20 like that.

21 **Q.** Now, at some point -- you are a Groeneveld customer
22 these days, correct?

23 **A.** Yes, we are.

24 **Q.** So at -- can you just describe to the jury when and
15:10:28 25 how that came about?

White - Direct

1 **A.** I had went to the TMC, which is the Technology and
2 Maintenance Council, part of ATA, American Trucking
3 Association, and every February in Florida, which when you
4 tell your boss you are going to Boca Raton or something, you
15:10:49 5 know, it's like yeah, you really are. I'm not a golfer. So
6 it's not like I was, you know, really taking advantage of
7 it.

8 But, I had went to the TMC. And at the TMC, they have
9 vendors. They would have -- all the truck, major truck
15:11:14 10 manufacturers would be there and have a booth like going to
11 a car show with Ford and Chevrolet and Chrysler. Everybody
12 else would be there. Only here, you have Vogel. And along
13 with that are all the components that make the trucks up.

14 The one thing about trucks, it's a little different
15 than the automobiles we drive, is that they're basically all
16 the same components, except the cab and the frame and how
17 the suspension is designed. A lot of them have the same
18 motor, same transmission, same drive axles, everything else
19 is almost exactly the same because they're components that
20 are put together. And when you buy a truck off the line,
21 from a manufacturer, there are a lot of things that they
22 don't have. So if you want to add a lube system and you ask
23 the manufacturer to put it on at the plant, they typically
24 don't do it because they're trying to just sell the trucks
15:11:55 25 as they can, get them down the line as far as they can. And

White - Direct

1 every time they add something different, it makes a change
2 it's not like adding two speed or three speed or change.
3 It's not cookie cutter like that. The trucks are more
4 finite. So we went to Groeneveld then to buy the lube
15:12:18 5 systems and install those after market like we do about
6 seven or eight other components.

7 Q. And what did -- what -- and when was this
8 approximately?

9 A. Been about 2000. I think it was 2004, could have been
15:12:32 10 '05, but I think it was 2004, February -- I know it was in
11 February because that's when the show is always in February.

12 Q. Okay.

13 A. But, I believe it was in '04.

14 Q. So can you just tell the jury what occurred at that
15:12:43 15 trade show, who you met and --

16 A. I typically go by myself, and I'm a -- I'm kind of a
17 wanderer. I look at stuff and, of course, you're trying to
18 avoid the sales guys. That's for sure. And they also bring
19 in -- and I use the term not to offend anyone, but the sales
20 girls. I mean they have those, too. And so you're trying
21 to avoid those or you don't stay married 42 years.

22 Q. I say why are you trying to avoid the sales girls?

23 A. You don't -- well, yeah.

24 Q. Trucks are more interesting to you?

15:13:15 25 A. So I can stay married for 42 years. That's why you do

White - Direct

1 that.

2 But, what happens to come up on the corner, and I can
3 almost envision the corner at the TMC. Groeneveld had a --
4 had a booth there. And a guy I met there was Kees Wapenaar.
15:13:33 5 He's Dutch. He and I are almost the exact same age. And we
6 just kind of hit it off. He started speaking to me, and I
7 told him he talked funny and he said well, so do you. And
8 so it was obvious we got along. And I invited him up to our
9 office in Wilmington, Delaware, and had a couple of
15:13:57 10 mechanics come in, sat down, went through the Groeneveld
11 system, and looked at it and looked at the quality of it,
12 and had the cut-aways, you know, just a good system, and
13 decided to give it a try.

14 **Q.** Were you initially skeptical?

15:14:11 15 **A.** Yes.

16 **Q.** Can you explain why?

17 **A.** Well, scepticism was we never greased a truck with
18 just such a thin lubricant. The lubricant is thin and the
19 tubing that they put it through is about the size of large
20 spaghetti, but the hole, you almost can't see it, it's so
21 small. And this grease will literally push that grease
22 through the tubing. And the key thing about that tubing is
23 where you have to tie it in and put it into a lubricant
24 point, a lot of times they may have to bring it in and tie
15:14:48 25 in a pretty tight point. So you may have, for example, in

White - Direct

1 the spring pin, that's in the springs, may be tight. So
2 they bring that up and bring it over and loop it in real
3 tight and have a real tight radius. And it won't bend, the
4 tubing won't bend, and the grease still goes through it.
15:15:06 5 Cold weather or hot weather, it goes through and lubes.
6 That was a scepticism.

7 I mean you can't -- first of all, you can't grease
8 through the little hole like that; and second thing, you
9 can't bend tubing that tight without kinking it, and both of
15:15:19 10 those were false because they do it.

11 **Q.** Did your prior negative experiences with the Grease
12 Jockey, the Alemite, and the Lincoln have -- contributed all
13 to this scepticism?

14 **A.** Sure it's one of those things, you figure nothing out
15 there really exists that's going to work. You tried it and
16 you tried it, and you try it, and you just -- you think it
17 will work, and it doesn't work. If you ever had a bad stain
18 in the sink or something and you go buy Ajax and it doesn't
19 work, you go buy something else, it doesn't work, and
20 somebody happens along, try this, and you figure well this
21 isn't going to work, and when it works it's like wow.

22 **Q.** Had other ALS manufacturers tried to convince you to
23 use their product before you went with the Groeneveld?

24 **A.** No, we had looked at them but hadn't been -- hadn't
25 been convinced that it would work, and biggest part of it

White - Direct

1 was just the presentations. And some of their systems when
2 you looked at them, when you actually looked at the guts of
3 their units, just weren't as solid as the Groeneveld. I
4 mean the Groeneveld is a solid unit. Just the valve itself,
15:16:31 5 all three or four pounds made out of brass, weld machine.

6 Q. And when you say the guts of it, what are you talking
7 about?

8 A. Everything from the bottom portion where all the
9 action takes place in the pump as well as -- not -- no
15:16:46 10 brass, not much brass there, but in all the modules and
11 everything, both along the frame where they actually meter
12 the grease so each grease point is metered by CC, and it's
13 just not a tube running to it and how much can we force to
14 it. It's actually done by measurement and in these
15:17:07 15 valves --

16 Q. And I mean just for the record, when you're talking
17 about the guts of the pump, which part are you talking
18 about? Is it in the reservoir area or inside the base?

19 A. Inside the base, yeah.

15:17:19 20 THE COURT: Ms. Michelson, I'm going to have
21 to take a break at this time.

22 MS. MICHELSON: Oh, thank you.

23 THE COURT: So, folks, we'll be in recess 15,
24 20 minutes thereabouts. Keep in mind the admonition.

15:19:05 25 (Thereupon, a recess was taken.)

White - Direct

1 THE COURT: You probably noticed we have in
2 the audience, these are international students from Case
3 Western Reserve that are helping me out, business and they
4 are master of law degree from China all the way to Kuwait,
15:37:03 5 all over the world.

6 And so they're -- they want to watch. They heard Ms.
7 Michelson was quite a lawyer. They wanted to come and watch
8 and hear her ask some questions.

9 MS. MICHELSON: And I'm honored. Thank you
15:37:14 10 for -- no.

11 THE COURT: That doesn't mean you have to ask
12 more than you need to.

13 (Laughter.)

14 THE COURT: Because then they can listen to
15:37:23 15 Melissa.

16 MS. MICHELSON: I'll do my best to --

17 THE COURT: Okay.

18 MS. MICHELSON: -- use my words wisely.

19 THE COURT: There you go.

15:37:29 20 BY MS. MICHELSON:

21 Q. Mr. White, hi. We're back. I'd like you to please
22 take a look at this picture that I'm putting on the Elmo.
23 We've marked it Exhibit PX-45.

24 A. It's not quite there yet. Looks like me.

15:37:48 25 THE COURT: Who's that good looking guy,

White - Direct

1 right? There you go.

2 THE WITNESS: That's the Lincoln system that
3 we installed prior to going to the Groeneveld, actually
4 about 25 of those. We had put 25 brand new crude oil trucks
15:38:02 5 down in west Texas, in Laredo, some of our worse service.
6 And by the time we got all 25 of them put on, we had three
7 or four that had already failed. And just -- this is just a
8 little thing, one of those things that's -- a part of the
9 things that was a failure. If you'll look at this very --
15:38:19 10 in it, you look at the top of it, you'll see that test.

11 Q. If you actually touch the screen, I think magic
12 happens.

13 A. Oh, magic. Okay.

14 Q. I think --

15:38:28 15 THE COURT: You're going to be John Madden
16 today.

17 THE WITNESS: In this area right here, that's
18 condensation inside that canister. So that's moisture
19 leaking back in through the vent system and gets in with the
20 grease and makes the grease then absorb those surfactants,
21 those detergents, cause it to collect the moisture. You
22 don't keep it separated or apart, actually get in there.
23 And now what happens is it gets down into that follower
24 plate, actually through the lube system. So you have issues
15:38:58 25 there as well. Plus whatever they made that top canister

White - Direct

1 out of, it's very brittle. I don't know how many of them we
2 broke. The Groeneveld system, we've had some very direct
3 hits had a couple have taken some big rocks out of a tire
4 and just cracked them, but these would literally shatter
15:39:15 5 like glass.

6 Q. And just for the record when you say these, you
7 pointed to the picture PX-45. When you say these you are
8 referring to the Lincoln reservoir?

9 A. That's correct. I'm sorry. The Lincoln is the one --
15:39:26 10 that's the canister that would shatter, yes.

11 Q. And the -- when you've had the situation where the
12 rocks are being thrown on the road, hits the Groeneveld
13 reservoir, what happens?

14 A. It may crack it, and it may break it if it's a large
15 enough rock. We put a guard around it in order to protect
16 it if we put them in the way of where the tires may throw
17 rocks up.

18 Q. And does it shatter like the previous system you had
19 used?

15:39:51 20 A. No, it doesn't.

21 Q. And for the record, we've marked this pump here
22 Exhibit 13- 1. Can you -- can you see it?

23 A. Yes.

24 Q. And is this pump 130-1 the same that's depicted, the
15:40:13 25 same model that's depicted in this picture here, PX-45?

White - Direct

1 **A.** Yes, it is.

2 **Q.** How long did you try out those Lincolns for?

3 **A.** Within about six or eight months, we still have about
4 half a dozen that are still on some older trucks, but we've
15:40:33 5 taken the old ones, and you just kind of moved them over to
6 keep those running. The other trucks we went on when we
7 traded the trucks, we just let them go with them.

8 **Q.** Now, when you go to trade shows and when you go about
9 your business, what products, what ALS manufacturer products
15:40:51 10 do you see in -- in your travels?

11 **A.** There's -- golly. I don't know if I can name them
12 all. I mean there's several that are out there. In fact, I
13 can't name them all. They're -- there are several.
14 Usually, whenever you go to these trade shows or truck
15 shows, like TMC or you go to the mid American show, which is
16 a larger truck show in America, in Louisville, Kentucky,
17 there's another one in Las Vegas, Nevada, and what they do
18 in the way they design those shows is they will put them --
19 usually the large truck manufacturers will be in one area of
20 the booth or building, tuck buildings that cover ten acres.
21 It's like three super Wal-Marts put together kind of thing.

22 And so there's a lot of -- a lot of space. And so
23 I'll put the truck manufacturers in an area and the guys who
24 make lubrication in one area, and guys who make aluminum
15:41:43 25 wheels and stainless steel in another area, you look at this

White - Direct

1 auxiliary power units basically as one area, be like going
2 to Wal-Mart. And if you want silverware and plates, you go
3 over in the area where it's home, and that's what you get.
4 And they designed those truck shows around that very similar
15:42:00 5 methodology.

6 Q. And have you ever seen Lubecore at one of the trade
7 shows that you've attended?

8 A. No, I never had.

9 Q. And what about the Groeneveld? You mentioned the one
15:42:11 10 where you saw it for the first time, but the other trade
11 shows that you've attended more recently, are you seeing the
12 Groeneveld product at those shows?

13 A. Yes, um-hum, at Mid-America and at TMC.

14 Q. And what -- who are the big boys in automatic
15 lubrication system in this market, meaning the United States
16 and the market where you run your trucks?

17 A. Well, I think Lincoln is out there. They're certainly
18 one of them. I don't know if I can think of another one
19 other than that one and the Groeneveld. There's so many
20 others that are foreign manufacturers; not pointing fingers
21 or anything, but foreign manufacturers.

22 Q. What about this?

23 A. All kinds. And we know that as well because
24 Groeneveld is not made in the U.S. And so you see those
15:42:59 25 different ones.

White - Direct

1 **Q.** How do you recognize Groeneveld pump as a Groeneveld
2 product?

3 **A.** It's -- well, to me -- I'm showing my age here -- it
4 would be like recognizing a '57 Chevrolet or a '65 Mustang.
5 You know what it looks like. You don't have to walk up to
6 it and say is it a Mustang. You know what it is when you
7 see it. And that's basically the design and the
8 configuration of the pump and the system.

15:43:21 5
15:43:36 6
10 **Q.** And what about the other products that you've
11 mentioned, the Grease Jockey, the Lincoln and the other
12 items that -- the other ALS pumps that you have mentioned
13 you may see in the market?

15:43:50 14
15 **A.** Those that you see, once you've seen them in the truck
16 show and/or somewhere else and if it's somewhat familiar,
17 hasn't been that long since you seen it and you happen to
18 see one sitting, you walk by, drive by in the parking lot,
19 you look at it and you can recognize, you know, that's a
20 Vogel unit or an Alemite unit, something you can recognize
21 it basically on the way it's shape because that's how it's
22 built.

23 **Q.** In usual experience, have you come across in the field
24 anything that looks identical or almost identical to the
25 Groeneveld pump? And I'm specifically talking about the
EP-0 single-line system that's the subject of our case here?

15:44:22 25 **A.** No, I've never seen one until this trial. I hadn't --

White - Direct

1 I had never seen the Lubecore, which is so -- is much
2 similar to that, and I've never seen it prior to this.

3 Q. I'm just going to show you a couple pictures of some
4 other pumps if you don't mind.

15:44:37 5 A. Sure.

6 Q. Exhibit -- I'm going to clear this. Exhibit 41,
7 PX-41, is this a product that you've come across in your
8 travels and in your work?

9 A. Yes, I've seen that before. In fact, if I recall
15:45:02 10 this, this part of this label up here, SKF is something
11 that's -- I don't know exactly how long it's been on that.
12 But, it used to be a Vogel with just the Vogel, and SKF
13 evidently purchased it and added the name to it, but used to
14 be just Vogel.

15:45:20 15 Q. And what kind of equipment do you see this pump on,
16 transport, on-road, off-road, that's what I'm getting at?

17 A. Usually on Class A truck whether on or off road, but
18 see it on the same kind of trucks that we have.

19 Q. So -- okay. Do you rely on the label that you see on
15:45:54 20 these pumps to tell you the source of it, where it comes
21 from, who makes it, to identify it basically?

22 A. If -- I wouldn't just the pump itself. Once I
23 recognize the shape of it, it's a Groeneveld unit or that's
24 a '65 Mustang, I don't need the label to tell me that it's a
15:46:13 25 '65 Mustang. I can pretty well figure that out by the shape

White - Direct

1 of it, what it looks like.

2 Q. Do you identify it based on the label or some other
3 feature that is visible to you?

4 A. No. As far as the label, no, I wouldn't. The -- it's
15:46:31 5 more of the -- it's just more of the design of it again.

6 It's what does it look like. It's a Groeneveld unit, that's
7 a Vogel unit, that's an Alemite. But, as far as just the
8 label, to -- by itself, that's -- that's not an issue as far
9 as the specific recognition of it. It helps, but it's not
15:46:56 10 the specific.

11 Q. So you alluded to the fact that at some point, you
12 did -- you were introduced or did see a Lubecore, the name
13 Lubecore. You know what? Let me withdraw that. I'm
14 getting a little tired. Sorry.

15:47:18 15 Can you tell the jury how you first learned about or
16 heard of Lubecore?

17 A. When first asked to look at the Lubecore system and
18 the question have I ever seen this device or this system,
19 and first time I seen it was actually in pictures and
20 addressed from Groeneveld's -- actually, Debbie's office to
21 look at it, and can you identify it, have you seen this
22 system before, have you used it, just some generic questions
23 like that, and that was the first time I had ever seen it or
24 heard the name even.

15:47:52 25 Q. About how long ago was that?

White - Direct

1 **A.** Oh, what, two years ago, maybe, thereby. It's been a
2 while, but a couple years.

3 **Q.** Maybe --

4 **A.** A year.

15:48:06 5 **Q.** How long before the last time you testified do you
6 think you heard from me? You -- if you don't --

7 **A.** It's been a year, been about -- I guess it's been
8 about a year. It was in the fall. I believe it was in the
9 fall.

15:48:19 10 **Q.** Hokey-doke.

11 I'm showing you now some photographs that we've marked
12 as PX-56-1, 2, 3, and 4. And can you tell the jury what
13 these photographs -- or where you saw them before? Are
14 those pictures you're talking about?

15:48:48 15 **A.** Yes, those are the -- those are the pictures that I
16 had seen and that were part of the deposition when I gave
17 that deposition as well.

18 **Q.** And what did you think when you saw it?

19 **A.** I thought it was --

15:49:03 20 MR. ANASTOS: Objection. He's not speaking
21 from personal experience. He's speaking from pictures that
22 were given to him by counsel.

23 THE COURT: Yeah. What's that about? You're
24 just showing him pictures.

15:49:17 25 MS. MICHELSON: Look -- let me think for one

White - Direct

1 second. I'll rephrase.

2 Q. Do you see a Lubecore pump in the courtroom today?

3 A. I see two pumps sitting there, and one of them has
4 Lubecore on it and the other has Groeneveld. And I'm
15:49:43 5 assuming the one Lubecore pump label is a Lubecore.

6 Q. Can you tell by looking at it who made it?

7 A. Not without the label.

8 Q. Does the label tell you who actually made it?

9 A. No.

10 Q. Does the label tell you where it was made?

11 A. Made by law. It may say made in, you know, Mexico, or
12 something, but it -- down in the little spot, but it doesn't
13 tell me by just the first view of looking at the label
14 itself. That gives me no clue.

15 Q. Well, when you see -- when you see that pump, what do
16 you think based on your familiarity and exposure to the ALS
17 systems over the years, including the Groeneveld system?

18 A. If it were me just looking at the two of them and with
19 the experience with the Groeneveld, I would assume that that
20 Lubecore pump looks like it's a Groeneveld pump that's been
21 taken out of the box, label taken off and a Lubecore label
22 put on it and put in a different box and sold as a Lubecore.

23 I would -- I would assume that it may also lead into
24 having some marketing at Oklahoma State which is, you know,
15:50:52 25 they have a great marketing program.

White - Direct

1 MR. ANASTOS: Objection.

2 THE COURT: Objection sustained.

3 THE WITNESS: Does that mean I can talk or I
4 can't?

15:51:01 5 THE COURT: No, she'll put another question to
6 you.

7 MS. MICHELSON: Just one second.

8 BY MS. MICHELSON:

9 Q. When you look at the shape and external design of the
15:51:27 10 Lubecore pump, what association is triggered in you as a
11 purchaser of these products in the United States?

12 MR. ANASTOS: Objection.

13 THE COURT: Objection sustained.

14 Q. Does it look like a Groeneveld to you?

15 MR. ANASTOS: Objection.

16 THE COURT: Objection sustained.

17 Q. As a purchaser, a customer of these products in the
18 United States market, would you be confused or uncertain
19 about the source of them or the origin of them or the
20 manufacture of them based on the outer appearance of
21 Lubecore?

22 MS. ZUJKOWSKI: Objection.

23 THE COURT: Objection sustained.

24 Q. In your -- in your experience, have you received
15:52:50 25 promotional materials in connection with the Groeneveld ALS

White - Direct

1 EP-0?

2 **A.** Yes.

3 **Q.** And can you describe those for the jurors, please?

4 **A.** Typical flyer. Always a picture of typically the ALS
15:53:07 5 system on it. It may -- occasionally you might see the
6 Compalube, which is a smaller system, cost less money. This
7 bigger unit will do like 60 grease points on a truck, and
8 the smaller system, might be Compalube, would do 12 points,
9 14 points. So you'd use it on a trailer or somewhere where
15:53:27 10 you didn't need that many grease points. It's about a half
11 or little less than half the cost. So you wouldn't want to
12 put this expensive system on a trailer when you only need it
13 on the tractor, the power unit.

14 **Q.** Does it -- do the images of the Groeneveld EP-0 pump
15:53:42 15 appear on promotional material and literature you received
16 in connection with that product?

17 **A.** Yes. In fact, any of the web page, anything you open
18 up, even the first page on the web page is -- is a
19 Groeneveld ALS.

20 MS. MICHELSON: Just give me one minute, your
21 Honor.

22 THE COURT: Good luck with your school.

23 MS. MICHELSON: I have nothing further of the
24 witness at this time. Thank you.

25 THE COURT: Thank you. Cross-examination.

White - Direct

1 MS. ZUJKOWSKI: Your Honor, we have no
2 questions of this witness.

3 THE COURT: Thank you, Mr. White.

4 THE WITNESS: Okay. Thank you.

15:54:45 5 THE COURT: You want to play the --

6 MR. ANASTOS: Not sure it's going to be
7 completed.

8 THE COURT: We'll do our best. We'll -- how
9 long is it?

15:54:52 10 MS. ZUJKOWSKI: It's an hour and 49 minutes.

11 THE COURT: Yeah, we won't finish it.

12 MS. ZUJKOWSKI: Should we introduce the
13 witness briefly or just start --

14 THE COURT: I don't know. Is he introduced on
15:55:02 15 the video?

16 MS. ZUJKOWSKI: I think he is.

17 MS. MICHELSON: Yes.

18 MS. ZUJKOWSKI: It's the same witness.

19 THE COURT: Yeah. Okay.

20 We'll go to ten to 5:00 and then resume on Monday. We
21 could always use the Plaintiff's computer. It works.

22 MS. MICHELSON: I mean some -- somebody's
23 going to have the whole thing. I mean it's long, but we
24 have a --

15:57:50 25 MS. ZUJKOWSKI: We have a disk of the CV. The

White - Direct

1 connection's the --

2 MS. MICHELSON: We have 8,000 laptops. I'm
3 sure we can find one that plays your disk. Your guy wants
4 to sits here or --

15:58:38 5 MS. ZUJKOWSKI: Just start it from the
6 beginning.

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Koppelman Depo

1 (Deposition of William Koppelman is played.)

2 THE COURT: Can we stop it here? Good time to
3 stop, folks? Okay. Thank you for your patience with us and
4 your attention. You spent two long days here. Rest over
16:48:56 5 the weekend. A couple days to go I think.

6 Keep in mind the admonition. You've heard some
7 evidence, not all. You don't know what it is as far as the
8 case so it's important that you keep an open mind.
9 Certainly don't form or express any opinion about anything
16:49:08 10 about the case.

11 Have a good weekend. See you Monday morning, same
12 time, same place. 8:15 where?

13 A JUROR: Parking lot.

14 THE COURT: Parking lot. Got it.

16:49:48 15 MS. MICHELSON: I respectfully need to place
16 some sort of record about some rulings the Court has made
17 during the questioning of the last few witnesses, especially
18 in light of the scope of his cross-examination that's being
19 allowed.

20 THE COURT: You can do it Monday morning.

21 MS. MICHELSON: Okay. Thank you, your Honor.

22 (Proceedings adjourned at 4:50 p.m.)

23

24

25

Koppelman Depo

1	DIRECT EXAMINATION OF KEES WAPENAAR	175
2	CROSS-EXAMINATION OF KEES WAPENAAR	250
3	REDIRECT EXAMINATION OF KEES WAPENAAR	266
4	RECROSS-EXAMINATION OF KEES WAPENAAR	274
5	DIRECT EXAMINATION OF MICHAEL DECLEEN	275
6	CROSS-EXAMINATION OF MICHAEL DECLEEN	306
7	REDIRECT EXAMINATION OF MICHAEL DECLEEN	329
8	DIRECT EXAMINATION OF ORVILLE WHITE	341

9

10 C E R T I F I C A T E

11 I certify that the foregoing is a correct
12 transcript from the record of proceedings in the
13 above-entitled matter.

14

15

16

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